

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----x
4 STEVEN SCHREIBER,

5 Plaintiff ,

United States Courthouse
Brooklyn, New York

6 - versus -

August 1, 2016
9:30 a.m.

7 EMIL FRIEDMAN, et al.,

8 Defendants.
9 -----x

10 TRANSCRIPT OF CIVIL CAUSE FOR EVIDENTIARY HEARING
11 BEFORE THE HONORABLE JAMES ORENSTEIN
12 UNITED STATES MAGISTRATE JUDGE

13 APPEARANCES

14 For the Plaintiff: BY: JAY PHILIP NELKIN, ESQ.
CAROL NELKIN, ESQ.

15 For the Defendants: BY: PAUL HANS SCHAFHAUSER, ESQ.
16 Emil Friedman and New York
Best Coffee, Inc.

17 For the Defendants: BY: DAVID B. GRANTZ, ESQ.
18 E&I Investors Group, LLC;
E&J Funding Co., LLC;
19 E&J Management Inc.; and
E & Jeryg Management Corp., LLC

20 Court Reporter: LINDA D. DANELCZYK, RPR, CSR, OCR
21 Phone: 718-613-2330
22 Fax: 718-804-2712
Email: LindaDan226@gmail.com

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25

Linda D. Danelczyk, RPR, CSR
Official Court Reporter

1 A P P E A R A N C E S: (Continued)

2 For the Defendants: BY: DAVID GRANTZ, ESQ.
24 Hour Oil Delivery Corp.;
3 MB Fuel Transport, MB Fuel
Transport I, Associated Fuel
4 Oil Corp.; Light Trucking Corp.;
165 Street Realty Corp.;
5 Park Avenue Associates

6 For the Defendants: BY: RICHARD AVERY FINKEL, ESQ.
Sylvia Ezell,
7 Sonia Rivera and
Jorge Salcedo

8 For the Defendants: BY: RICHARD BRUCE FELDMAN, ESQ.
9 Michael Devine and
Michael Devine, CPA

10 For the Defendants: BY: ROBERT J. BERGSON, ESQ.
11 Geoffrey Hersko and
Geoffrey S. Hersko, P.C.

12 For the Defendants: BY: MAURICE HELLER, ESQ.
13 Solomon Birnbaum,
Single Serve Beverages
14 Distribution; Crazy Cups;
26 Flavors, LLC; Office
15 Coffee Services, LLC

16 For the Defendants: BY: RAPHAEL M. ROSENBLATT, ESQ.
17 Two Rivers Coffee, LLC

Proceedings

1 THE COURT: Good morning, everybody.

2 All right. I have a couple of things that were
3 submitted last minute. There is the late Friday submission
4 asking to postpone the hearing that I entered an order on, and
5 about 2:00 this morning, the plaintiffs filed a large
6 submission. I haven't read it thoroughly, but I've read the
7 letter in the Stroz report, haven't been in detail through the
8 exhibits.

9 I take it you folks have all seen this?

10 MR. SCHAFHAUSER: I can only speak for me. I just
11 started reading it here. When I left for the courthouse, I
12 wasn't aware of it.

13 THE COURT: Okay. You saw my order over the
14 weekend, though, right?

15 MR. SCHAFHAUSER: Certainly.

16 THE COURT: And that's been complied with?

17 MR. SCHAFHAUSER: What we did, Your Honor --

18 THE COURT: Has it been complied with,
19 Mr. Schafhauser? Yes or no.

20 MR. SCHAFHAUSER: Yes, Your Honor, of course, as I
21 understand Your Honor's --

22 THE COURT: Excuse me. I'm not of the mind to hear
23 a lot of dissembling. I want straight answers.

24 Have you gotten into the computers.

25 MR. NELKIN: We got the computers, we don't have the

Proceedings

1 images because they've instructed Stroz not --

2 THE COURT: Provide the images now.

3 MR. NELKIN: They have to tell Stroz that --

4 THE COURT: Make the call, please.

5 MR. SCHAFHAUSER: Your Honor, I --

6 THE COURT: Make the call, please. I have entered
7 the order several times. If you'd like to be held in
8 contempt, I will make that finding. But please go do it.

9 MR. FINKEL: Your Honor, there are privileged
10 communications --

11 THE COURT: Yes, you've had plenty of time to --

12 MR. FINKEL: I --

13 THE COURT: Mr. Finkel, I do not want an argument.
14 I want compliance with an order. If you are going to say
15 there's a reason you will not comply with the order, fine,
16 tell me that. This is not argument.

17 MR. FINKEL: All I want to say, Your Honor, is that
18 I provided plaintiff with a privileged log before our last
19 hearing --

20 THE COURT: Look --

21 MR. FINKEL: -- and those are the communications I'm
22 concerned about.

23 THE COURT: Are you going to make the call or not?

24 MR. FINKEL: It's not up to me to make the call,
25 Your Honor.

Proceedings

1 THE COURT: Mr. Schafhauser.

2 MR. SCHAFHAUSER: I certainly will make the call.

3 THE COURT: I'll wait.

4 MR. SCHAFHAUSER: And I will make it now.

5 THE COURT: I will wait while you make the call.

6 MR. SCHAFHAUSER: May I be heard, Your Honor?

7 THE COURT: After you've made the call. After
8 you've made the call, you can be heard. If you don't wish to
9 do that --

10 MR. SCHAFHAUSER: I will make the call.

11 THE COURT: Please.

12 MR. SCHAFHAUSER: I'm not sure who I'm calling.

13 THE COURT: Whoever can authorize -- whoever has
14 stood in the way of releasing the image is the person you must
15 call to say: They're not going by your instructions
16 anymore --

17 MR. NELKIN: Your Honor, Mr. Grantz also sent a
18 letter. Mr. Finkel also sent a letter.

19 THE COURT: Everybody that was told people at Stroz
20 not to release the imagine, please make the call now. I'll
21 wait.

22 (Pause.)

23 THE COURT: All right. So before we get started --

24 MR. SCHAFHAUSER: Your Honor, I called Mr. Michael
25 Gernie at Stroz Friedberg. With me on the line we had a

Proceedings

1 conference call.

2 Mr. Finkel was on -- participated. Mr. Grantz
3 participated and Mr. Heller participated, all of whom had
4 asserted on behalf of their respective clients certain
5 positions with respected to Stroz, and we all had directed
6 Stroz to release the images.

7 THE COURT: Good. Thank you.

8 Okay. And you wanted to be heard on some matters I
9 want to treat, complete your record.

10 So go ahead.

11 MR. SCHAFHAUSER: Thank you. What I wanted to
12 say -- and the direction has been made.

13 What I wanted to respectfully note, Your Honor, is
14 that I don't know that this was brought out.

15 When I received Your Honor's order on -- the docket
16 entry, rather, the order on Saturday, I reached out to Stroz
17 and directed them -- well, it's not my directive, it's their
18 client -- but authorized them on behalf of the Friedman
19 defendants to release the two computers working with that have
20 no privileged information on them, there's no reason they
21 shouldn't have released those. And to additionally release
22 the remaining images as soon as the privileged material
23 identified was removed.

24 That was the way I had understood what had been
25 placed on the record on Friday, August 8th, regarding the

Proceedings

1 removal of privileged materials. And I'm just saying, I
2 certainly wasn't intending to stand in the way of the release
3 of the images, and we had had a protocol in place with
4 plaintiff on that point.

5 But the directive has been made. Thank you.

6 THE COURT: Okay. Anyone else?

7 Okay. Now, with respect to the filing from last
8 night -- let's finish up with the requests that were made in
9 the July 29th filing by defendants and the hearing.

10 You know, the Stroz report says what it says, but
11 now you have the image computers or the images. You have
12 access to Two Rivers Launch to the extent that it hasn't been
13 changed --

14 MR. NELKIN: We do not, Your Honor.

15 THE COURT: Oh, you do not. Okay, tell me what's
16 wrong then.

17 MR. NELKIN: We had Stroz follow the instructions
18 last night trying to get onto the Launch system. We do not
19 have the ability to get on to one system.

20 But more importantly, what the Stroz report shows is
21 that the Launch system was removed from the Two Rivers'
22 servers surreptitiously -- well, the servers were wiped and
23 then the material were surreptitiously transferred somewhere
24 else, and the computers that used to look towards the servers
25 were now redirected elsewhere.

Proceedings

1 We don't know where that is. We don't have any
2 ability to access it. We don't have any ability to test
3 whether it's been altered in any way, shape or form, and it's
4 also, I believe, conditioned on Two Rivers paying an ongoing
5 fee, or it will be terminated.

6 But right now, we do not have access to it, and we
7 simply want --

8 THE COURT: I'm trying to understand just the
9 technical term, what do you mean when you say you don't have
10 access?

11 When you execute the instructions that they sent
12 you, what happens?

13 MR. NELKIN: Attached is an exhibit to our thing,
14 there's an error message that comes up.

15 THE COURT: Okay. Let me see that.

16 MR. NELKIN: Give me one second and I'll find it
17 exactly. 13.

18 THE COURT: Okay. Hold on a second.

19 So Exhibit 13 is an email from Kevin Faulkner at
20 Stroz to you, it shows last night at 9:34 p.m.

21 I followed the instructions below in an attempt to
22 connect to the system, and then not pass the instructions.

23 For all those user names, other than Steven, it
24 returns an error saying the log-on attempt to fail, indicating
25 the user name's incorrect. When attempting to log on as

Proceedings

1 Steven, it also does not work and returns the following error,
2 and the error message reads: "You must change your password
3 before logging on the first time. Please update your password
4 or contact your system administrator or technical support."

5 Okay. And I'll just note that the email chain
6 that's in Exhibit 13 includes the email from Mr. Schafhauser
7 to Mr. Grantz on July 29th at 1:04. That includes the log-on
8 information that formed part of the basis of the defendant's
9 request on July 29th. Okay.

10 MR. NELKIN: So we simply don't have access to it.
11 But even if we had access to it, it's located somewhere
12 outside our control with -- under circumstances that we don't
13 have any control over.

14 THE COURT: All right. I guess one question I have
15 is: You know, I just hate the two sides for the defense,
16 collectively, would tell me very different things about the
17 meaning of the records so far. But I guess the question for
18 you in the first instance, Mr. Nelkin, is, what additional
19 facts do you anticipate would be established at this hearing
20 that would be of use to me in making the determinations I need
21 to make?

22 MR. NELKIN: I believe that Mr. Nussbaum, who is the
23 IT consultant who worked under Mr. Rogosnitzky, and has also
24 been designated by all of the different defendants to discuss
25 their computer issues and all the topics related to the

Proceedings

1 computers that we identified, such as how the devices were
2 backed up, which people had access to them, those types of
3 things, I would think that that would be of use to the Court.

4 THE COURT: To demonstrate what?

5 MR. NELKIN: To demonstrate the existence of other
6 computers that existed, some other devices used by
7 Mr. Friedman.

8 THE COURT: Right. Let's assume -- and part of this
9 speeds up your submission earlier this morning.

10 But I was struck by the assertion that the Stroz
11 report conclusively sort of -- or it establishes violation
12 against potentially full release of evidence and failure to
13 comply with this Court's orders.

14 If that's your view, is everything else discovery,
15 or do you feel that the record you make can show that the
16 violations have occurred?

17 MR. NELKIN: Well, I think that the Stroz report is
18 one piece of the evidence. I think that to the extent we say
19 that the word "conclusively," we're talking about other things
20 besides just the Stroz report, such as the letters that were
21 produced from Mr. Friedman.

22 THE COURT: Right.

23 MR. NELKIN: Those types of things, the documents
24 that are produced, we have not had a chance to look at the
25 documents that were produced to Mr. Popa. They're several

Proceedings

1 thousand pages of documents which we believe are books and
2 records which we believe would likely be something that we
3 would point out to the Court with examples.

4 But I do believe that there's additional information
5 that the Stroz report doesn't delve into, such as the user
6 names on other computers and things of that sort because they
7 don't have access to those other computers.

8 THE COURT: Okay. So that's Mr. Nussbaum.

9 MR. NELKIN: Mr. Nussbaum.

10 THE COURT: Anything else -- for example, what do we
11 need a 30(b)(6) witness for?

12 MR. NELKIN: Well, that --

13 THE COURT: And I'm using the phrase, again, "we".
14 Go ahead.

15 MR. NELKIN: Yes.

16 Our only issue there, I think, is we're trying to
17 show how these computers were used, and who used them, and who
18 has custody and control of them. It's very unclear to the
19 plaintiff who, among the defendants, had custody and control
20 over these particular devices; who owned them.

21 And I don't think the testimony that we elicited
22 resolved that. So we were hoping that the defendants
23 themselves could produce a witness who would tell us, this is
24 a Park Avenue computer, this is a --

25 THE COURT: In the absence of reliable information,

Proceedings

1 and I seem to question the reliability of some of the
2 information that adverse witnesses have given, what would you
3 be saying?

4 In other words, if you come at this with, well,
5 here's what they say, we don't think that that's right, we're
6 essentially back where we were without those witnesses and --

7 MR. NELKIN: Well, I think there are certain things
8 that the Court could do that would allow us to have a better
9 chance of obtaining reliable information.

10 First off, the names and users on the computers that
11 have not been returned to the plaintiff or not been made
12 available to the plaintiff, I think, would be important.

13 THE COURT: Sorry to cut you off. I'm trying to get
14 a sense of what we can and need to do by means of live
15 testimony in court. What we can do by, you know, very
16 targeted directives to be complied with, you know, forthwith.

17 MR. NELKIN: One of the things that would be
18 important for us to know is there appears to have been a lot
19 of communication with Mr. Rogosnitzky by Mr. Nussbaum.

20 We had a subpoena to Mr. Nussbaum for all the
21 information related to the Launch and other things. We
22 received a very minimal response to that. And I think that
23 that would be helpful.

24 I think communications between the other defendants
25 and Mr. Rogosnitzky and Mr. Nussbaum would be helpful in

Proceedings

1 determining --

2 THE COURT: Okay, but focus on what we need to
3 establish by the testimony.

4 MR. NELKIN: By the testimony? I would like to hear
5 Mr. Nussbaum's descriptions of what he did with respect to
6 identifying the computers, reviewing the computers, producing
7 the affidavit that he produced. I would like to investigate
8 what Mr. Nussbaum's role was at the company with regard to --

9 THE COURT: Okay, so you want to ask him about that.

10 Is there anyone else that you think that you all
11 would benefit from hearing from in live testimony that will
12 help establish the things that you're trying to establish to
13 get the relief you think you're entitled to?

14 MR. NELKIN: We believe -- but, again, I believe
15 that this could be a targeted response. We believe that there
16 are certain systems, the corporate system, the Intuit payroll
17 system, there may be others that we're unaware of that, the
18 defendants have custody and control of.

19 Stroz, for instance, discovered that there is an
20 Intuit system on Mr. Friedman's computer, is my understanding.
21 We have documents that show that Mr. Divine and Mr. Friedman
22 were authorized users for Two Rivers of this Intuit payroll
23 system.

24 Those are the types of things that we were going to
25 explore with Mr. Divine. We're going to explore with

Proceedings

1 Mr. Divine to produce several thousand -- well, a large
2 quantity of material on Friday as well.

3 He had sent emails to Two Rivers that he received
4 from Two Rivers, he did not send any communications he had
5 sent back, but more importantly, we were going to explore with
6 him the fact that the State of New Jersey had been told that
7 all the payroll records were being stored at his office, and
8 so we were going to --

9 THE COURT: Okay. So Nussbaum, Divine, anyone else?

10 MR. NELKIN: We had -- we're going to ask
11 Mr. Salcedo some questions about his role in the removal of
12 the computer and the removal of the documents.

13 THE COURT: But that's going to a computer you don't
14 have, correct?

15 MR. NELKIN: Well, we were going to explore -- no,
16 it's going to a computer that we believe -- there's a third
17 computer --

18 THE COURT: Okay.

19 MR. NELKIN: -- that seems to have disappeared.

20 We assumed that, based on his affidavit, that he's
21 going to deny it. So I'm not sure how --

22 THE COURT: But it's something that you don't yet
23 have and that you're seeking, so I understand, okay.

24 MR. NELKIN: And we were going to explore some of
25 the books and records that were removed from Two Rivers.

Proceedings

1 THE COURT: That's Mr. Salcedo.

2 MR. NELKIN: And the testimony, I believe, was that
3 he --

4 THE COURT: Okay. Go on. Who else, besides those
5 three?

6 MR. NELKIN: Those were pretty much what we were
7 looking at.

8 THE COURT: Okay.

9 And on the defense side, I need to hear, A, is there
10 any reason why I shouldn't hear testimony from those three on
11 those issues that seem to be remaining in dispute; and, B,
12 whether there is any further case you want to put on?

13 MR. SCHAFHAUSER: Again, I can only --

14 THE COURT: I know you can only speak for yourself.
15 I will hear from everybody.

16 MR. SCHAFHAUSER: One of the reasons I wrote the
17 letter is that the relief that was originally sought is
18 different than what we're hearing.

19 THE COURT: Yes, but, you know, Mr. Schafhauser, one
20 of the continuing difficulties I've had in this hearing, and
21 throughout the case, is I ask a question that lets you know
22 what I'm trying to understand, and you start answering a
23 different one, and the disconnect makes it really difficult
24 for me to pursue a conversation.

25 MR. SCHAFHAUSER: Thank you.

Proceedings

1 THE COURT: So, as to the three witnesses, any
2 reason I shouldn't hear from them?

3 MR. SCHAFHAUSER: I think -- well, again, my
4 position is the issues on the motion have been rendered moot,
5 but I've heard what Mr. Nelkin has to say. If the scope of
6 the hearing is as Mr. Nelkin now describes it, then to answer
7 Your Honor's question, then would I propose, on my client's
8 case, to call one or more of Mr. Steven Schreiber, Vincent
9 Poppa and/or Mr. Koenig.

10 THE COURT: Okay. So you do want to present a case?

11 MR. SCHAFHAUSER: And the case that would be
12 presented would be aimed to demonstrate that the materials
13 that plaintiff purports to be seeking are essentially already
14 in the possession of --

15 THE COURT: Right. You see, and I'm glad you're
16 giving me a preview on this. I'm going to be careful just to
17 circumscribe this hearing, not to the state of discovery and
18 the information available in some form or another, but the
19 extent to which the defendants have complied with their
20 obligations under existing orders.

21 So it sounds like there may be a significant part of
22 what you're describing that goes to the status of discovery,
23 and as you've been careful to point out, that's not what this
24 hearing is about. So I'll certainly let you call your
25 witnesses, but I'll be attentive to making sure we keep our

Proceedings

1 eye on the ball.

2 So three witnesses on their side, three on yours, I
3 think I heard.

4 MR. SCHAFHAUSER: As I presently understand. But,
5 Your Honor, in terms of the status of the hearing, there's
6 another aspect of testimony from these witnesses.

7 The other aspect of the hearing, as Your Honor will
8 recall, is whether my client's entitled to access as well.
9 And that is something to be explored through these witnesses
10 as well. In other words, Mr. Poppa, what does he disseminate
11 regularly to the other members that he doesn't disseminate to
12 Mr. --

13 THE COURT: Okay. Look, we'll take it as it comes
14 in the examination. I want to keep attentive to what I'm
15 trying to decide here.

16 MR. SCHAFHAUSER: I understand, Your Honor.

17 THE COURT: And, you know, look, you'll have an
18 opportunity quickly to respond to the Stroz report, but it
19 raises some significant concerns for me, some of which may
20 obviate the need for the determination to be made or shortcut,
21 provide a shortcut to this determination, and provide a reason
22 to consider more directly the appropriate remedy.

23 Anyone else have other witnesses that they wish to
24 call or that they want to object to on the plaintiff's side?
25 Yes.

Nussbaum - Direct - Nelkin

1 MR. FINKEL: Apropos of your statement about
2 circumscribing the scope of the hearing, based upon what
3 Mr. Nelkin just told Your Honor concerning one of my clients,
4 Mr. Salcedo, they're going to inquire about events that
5 occurred well before the filing of the complaint.

6 THE COURT: Yes, a lot of the testimony has been --

7 MR. FINKEL: And Mr. Salcedo has indicated in both
8 affidavits that he filed, quite clearly says, I never removed
9 the computer from Two Rivers.

10 THE COURT: All right. So we'll hear what he has to
11 say.

12 MR. FINKEL: But the removal has to do with events
13 that are covered in the complaint, Your Honor.

14 THE COURT: Right, and we'll hear what he has to say
15 about that.

16 Anyone else? Okay. Let's get to the first witness
17 then.

18 MR. NELKIN: I call Benzion Nussbaum.

19 (Witness takes the witness stand.)

20 BENZION NUSSBAUM, called as a witness, by the Plaintiff,
21 having been first duly sworn/affirmed, was examined and
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. NELKIN:

25 Q Mr. Nussbaum, could you please state your full name.

Nussbaum - Direct - Nelkin

1 A Benzion Nussbaum.

2 Q And where do you reside?

3 A Brooklyn.

4 Q What's your address in Brooklyn?

5 A 1054 59th Street.

6 Q Do you reside with anyone else there?

7 A My parents.

8 Q It's their home?

9 A Their home, yes.

10 Q Are you currently employed?

11 A I'm not. I do contract work for people, IT work.

12 THE COURT: Just speak a little clearly and you tend
13 to put your hand in front of your mouth a little bit so try to
14 avoid that.

15 Go ahead.

16 BY MR. NELKIN:

17 Q And are you compensated for those services?

18 A Sometimes I do it for friends also. I usually don't
19 charge.

20 Q Have you done it for any of the defendants?

21 A Yes.

22 Q And have you done that as an employee or as an
23 independent contractor?

24 A As an independent contractor.

25 Q And did the defendants that employed you pay you?

Nussbaum - Direct - Nelkin

1 A He did.

2 Q Can you tell me which of the defendants employed you?

3 A Friedman. And I worked for Two Rivers, I assume.

4 Mr. Steven Schreiber and -- well, he's not a defendant, but...

5 Q Did you work for any of the companies themselves?

6 A Yes, I think so.

7 THE COURT REPORTER: I'm sorry, I couldn't hear you.

8 THE COURT: You have to speak more clearly.

9 A I got calls from the other partners besides Mr. Friedman
10 to do work. So, yes, I was working for the companies.

11 Q Well, did you do work for E&I Investors?

12 A No. Never heard of it 'til this whole thing started.

13 Q Did you do for work E&J Funding?

14 A No, never heard of it either until this whole thing
15 started.

16 Q E&J Management, did you --

17 A That's the real estate? Yes.

18 Q What did you do for them?

19 A Just fixed their computers, printers.

20 Q Where was the location that you did that?

21 A Brooklyn.

22 Q Do you remember the address?

23 A It's on Beverly Road, East 92nd.

24 Q Did you do for E & Jeryg Management Corp.?

25 A I don't really know the corporate entities, so I can't

Nussbaum - Direct - Nelkin

1 really answer. But if -- what business do they do?

2 THE COURT: Sir, just so it's clear, the lawyers are
3 going to ask you questions, you're going to answer them to the
4 best of your ability.

5 THE WITNESS: Right.

6 THE COURT: But I don't anticipate that you're going
7 to be posing questions to the lawyers today, all right?

8 THE WITNESS: I don't always understand what they
9 ask me about corporate entity. I don't really know.

10 THE COURT: If you can just answer to the best of
11 your ability, okay. Thank you.

12 BY MR. NELKIN:

13 Q How were you paid? Were you paid by check or by cash?

14 A Well, it depends. If it was small amounts, sometimes
15 they gave me checks. Small amounts they gave me cash, but
16 more often they gave me checks.

17 Q Do you remember which company's checks you received?

18 A I received from Two Rivers. I received from 24 Hour Oil.
19 It's what I recall offhand.

20 Q Okay? Did you do more work for MB Fuel Transport?

21 A No.

22 Q MB Fuel Transport I?

23 A No.

24 Q Associated Fuel Corp.?

25 A No.

Nussbaum - Direct - Nelkin

1 Q Light Trucking Corp.?

2 A No.

3 Q 165th Street Realty Corp.?

4 A No.

5 Q Park Avenue?

6 A I never billed to them, so.

7 Q But you might have done for them?

8 A I don't think so. I mean, I was working for the oil
9 company, 24 Hour Oil, as far as I know.

10 Q Park Avenue Associates?

11 A No.

12 Q I'd like to refer you to Exhibit 111.

13 Do you recognize that document?

14 A I do.

15 Q Can you tell me what it is?

16 A My declaration involving the computers that they asked me
17 to do.

18 THE COURT: I'm sorry.

19 Q Document 111?

20 A Oh. This is one -- okay. It says résumé Nussbaum.

21 Q Yes. Can you turn the page.

22 A Yes.

23 Q Do you recognize the documents?

24 A I do.

25 Q What is it?

Nussbaum - Direct - Nelkin

1 A It's a résumé. It's a dating résumé, actually.

2 Q Can you explain to us what a dating résumé is?

3 A It's when you date. You got to give information and
4 references so people find out about you.

5 Q Can you look where it says understand the first line when
6 it says "Yeshivas"?

7 A Yes.

8 Q What does it say?

9 A It says: "IT systems work for Park Avenue Associates."

10 Q And who is that, Park Avenue Associates?

11 A The reason why I put that is because the domain name on
12 the computers existed from before I came that said Park Avenue
13 Associates.

14 I don't know corporate entities, I know the
15 computers, and they still had the old domain name. Because to
16 change the domain name is a huge job. You have to
17 decommission the server, decommission all the computers and
18 then re-put them back in.

19 So the name that I saw was Park Avenue, so that's
20 why I put it there. But I never received a check from Park
21 Avenue Associates.

22 Q When you were working on these computers, who was giving
23 you a check?

24 A Mr. -- 24 Hour.

25 Q But you never did any work for Park Avenue Associates?

Nussbaum - Direct - Nelkin

1 A No. Just domain name. Again, you don't change the
2 domain name unless you have to unless you connect to the
3 internet because it's a huge job.

4 Q If it's your résumé and you're trying to accurately
5 represent who you worked for, why wouldn't you actually put
6 the company, you're not changing the domain name there?

7 A Because, I mean, this is standard. People just want to
8 see that you worked. Nobody's going to care about that. It's
9 not a work résumé, it's a dating résumé.

10 Q But I guess my question is: Why wouldn't you just put
11 the company you worked for?

12 A I actually didn't know until I received the check at the
13 time I made it this, the name I was associated with was Park
14 Avenue Associates.

15 Q So your testimony is that you did some work before you
16 created this résumé and you weren't paid until after the
17 résumé was done?

18 A If you look, sometimes I didn't charge for like eight
19 months. You could see the bills. It wasn't more than a few
20 hours sometimes for a month, so I used to wait for a couple
21 months to add up. If you look at the bills you could see
22 that.

23 Q We actually asked for your bills but --

24 A There in the Launch, the Two Rivers bills they should be
25 in there.

Nussbaum - Direct - Nelkin

1 THE COURT: I'm sorry. They gave you a request for
2 documents and you assumed that you could not provide them --

3 THE WITNESS: I don't know. But I provided my
4 lawyer provided me.

5 THE COURT: Provide them today, please.

6 BY MR. NELKIN:

7 Q Now, did you do work for any of the personal -- the
8 private defendants, John Ahearn?

9 A No, he had an office that he worked on the computers, the
10 24 Hour computers, but I never did personal work for him.

11 Q What about Sylvia Ezell?

12 A I used to help her out sometimes, yes.

13 Q And when you were helping her out, were you helping her
14 out personally or were you helping out for some company?

15 A I assumed 24 Hour Oil.

16 Q What about Sonia Rivera?

17 A He used to help her out, too.

18 Q And when you were helping her out, who were you helping
19 her for?

20 A It depends on which computer she was working on. She has
21 her own computer.

22 Q How many computers did she have?

23 A She had one for -- at what times?

24 Q Let's start from the time you knew her until the --

25 A Originally we only had oil computer, then she started

Nussbaum - Direct - Nelkin

1 working for Two Rivers and she had a separate computer for
2 that.

3 Q When you say "separate computer," a different computer?

4 A Different computer, yes. Different box. Different
5 physical box, yes.

6 Q Okay.

7 A And then that's as far as I know.

8 Q Okay. And what about at the present time?

9 A Present time she does work for 26 Flavors also. But
10 that's done -- because it's done on the internet. I don't
11 really do work on the computer involving that. That's totally
12 manned by the one system.

13 Q And what computer does she use when she uses -- accesses
14 the portal?

15 A I think she uses her oil computer.

16 Q And where is that portal connecting to?

17 A Some server, I guess.

18 Q How does her computer link to the servers in the office
19 she sits in?

20 A Which servers?

21 Q Well, she sits -- right now she's in the Bronx, how does
22 her computer connect to the server in the Bronx?

23 A It's on a domain.

24 Q Explain what you mean by that?

25 A You just connect it to a network cable.

Nussbaum - Direct - Nelkin

1 Q And so her servers -- her computers connected to the
2 server, and the server is connected to what?

3 A Just connect. It's just on the network.

4 Q And with the network, who else is connected in to that?

5 A Well, any of the other oil computers.

6 Q Have you done any work for Jorge Salcedo?

7 A No.

8 Q Have you done any work for Michael Divine?

9 A No.

10 Q Have you heard --

11 A I once delivered a screen to his office but he didn't
12 really work there.

13 Q And what was the purpose of delivering the screen?

14 A He needed a full-size screen so he can do -- he did the
15 tax work. I don't know exactly. That's what I was told.

16 Q Do you know which company it was for?

17 A No.

18 Q Do you know which type of company it was for?

19 A No.

20 Q And did you connect the screen for him?

21 A No, I did not. He wasn't there in the office, I left it
22 there in his office.

23 Q Did you do any work for Geoffrey Hersko?

24 A No, I did not.

25 Q Or his law firm?

Nussbaum - Direct - Nelkin

1 A No.

2 Q What about Shlomo Birnbaum?

3 A Personally or for 26 Flavors?

4 Q Either.

5 A I've done work for 26 Flavors, yes.

6 Q And where is the location that you did that?

7 A Newark, New Jersey.

8 Q And what computers did you work on there?

9 A I didn't work on computers, I was only involved with the
10 network.

11 Q It's not a computer network?

12 A Yeah, but the network is independent from the computers.
13 You can do actual work on the physical computer before you
14 could work on the actual network. You have to wire in the
15 firewall switch. That's the only work I did over there.

16 Q How many computers are located there?

17 A Again, I never really did anything with the computers,
18 but offhand from walking in there, there's one, two, three,
19 four -- there's a computer there that's owned by FedEx, so.
20 Four or five that I know offhand.

21 Q And are they in their offices or are they on the work
22 floor somewhere?

23 A They're in the offices. I just know when I walked in
24 there --

25 Q And do you know who works on those computers?

Nussbaum - Direct - Nelkin

1 A From my understanding of the business, although I can't
2 say this for sure, is the business they have done on portals
3 on the internet.

4 Q I'm not asking that, I'm asking you who utilize --

5 A Oh, use. The people who work there. I can't give you
6 names.

7 Q Did Mr. Birnbaum use it?

8 A Mr. -- I've never -- I've only been there once when
9 Mr. Birnbaum was actually there. And he wasn't working on a
10 computer.

11 Q What about Mr. Friedman?

12 A Not that I know about.

13 Q And so have you done any work for any of Mr. -- the
14 single-server beverage distribution?

15 A Actually I never heard that name 'til right now.

16 Q Crazy Cups?

17 A Never heard of that name.

18 Crazy Cups, I know they sell Crazy Cups.

19 Q Office Coffee Services?

20 A Yeah, I mean that's all 26 Flavors, all the coffee
21 companies. To me it's all the same.

22 Q Okay. And for that you say you limited yourself to
23 network issues?

24 A That's what I dealt with, yeah.

25 Q Except when you were working -- did I understand you to

Nussbaum - Direct - Nelkin

1 say that you did help Miss Rivera on 26 Flavors matters?

2 A Mostly to do with her printer, which is also network
3 issues.

4 Q How much have you paid to -- for your IT work by
5 Mr. Friedman?

6 A Total.

7 Q Yes.

8 A I don't know offhand. I mean, it's not a lot.

9 Q More than \$10,000?

10 A Over three years? Over how long?

11 Over three years more than \$10,000.

12 Q Twenty?

13 A Probably not.

14 Q Okay. What about from all the defendants combined?

15 A I don't know who the other defendants are offhand, but I
16 don't -- no, probably not.

17 Q Two Rivers, they paid you; is that correct?

18 A Correct.

19 Q How much did you -- were you paid by Two Rivers?

20 A I don't know offhand. I have to add it up.

21 Q All right.

22 A That's accessible, if you want just look it up.

23 THE COURT: One of the things that you might keep in
24 mind is that saying something is available from some other
25 source is not particularly helpful. Tell us what you know.

Nussbaum - Direct - Nelkin

1 THE WITNESS: Sure.

2 THE COURT: If you know it. Don't withhold the
3 information because it's available somewhere else.

4 THE WITNESS: Yeah, I just don't know offhand --

5 THE COURT: -- complete testimony.

6 THE WITNESS: Yeah.

7 BY MR. NELKIN:

8 Q Did you prepare invoices for Two Rivers?

9 A I did.

10 Q And do you still have them somewhere on your computer?

11 A Um, probably not. It's possible I have some. Mostly
12 once I handed them over, because everything it was being
13 stored in the accounting system, if I needed a copy, I could
14 always get it.

15 Q How were you paid by Two Rivers? Was it check, cash?

16 A Usually made out a check.

17 Q And did you put those checks into your bank account?

18 A I usually use to have -- I used not bill for a long time,
19 and then he used to given me money monthly.

20 When the check came, most of it was used.

21 Q I don't understand that. Let me -- let me ask you a
22 couple questions to try and help me understand.

23 You submitted an invoice to Two Rivers.

24 A Yes.

25 Q And then you weren't paid for that? You said you were

Nussbaum - Direct - Nelkin

1 paid -- Mr. Friedman paid you on the side?

2 A I used to not bill, and you can check the records for
3 that. Sometimes for months sometime.

4 So Mr. Friedman would led me money. And I didn't go
5 there often. So he would lend me money. Sometimes weekly,
6 sometimes monthly. And then when the check came in, I used to
7 just give it to him because I owed him.

8 Q When the check came in how was the --

9 A Usually he would put -- what do you mean?

10 Q Usually he would what. I didn't understand what you
11 said.

12 THE COURT: Start again, please.

13 Q All right. How would you get the check?

14 A He would bring it by. Sometimes he would bring it to
15 Brooklyn.

16 Q And what was the basis for the amount that the check was
17 made out for?

18 A Based upon my bill.

19 Q And did that match the amount that he had loaned you or
20 given you along the way?

21 A Sometimes it would be a little more, sometimes a little
22 less. But usually it was pretty close.

23 Q And so you would just sign the check over to him or how?

24 A Yeah.

25 Q Okay. Turn to Exhibit 120 in your binder.

Nussbaum - Direct - Nelkin

1 Did do you recognize these checks?

2 A I do. I don't remember what they looked like. I can't
3 say I remember every check.

4 Q Can you tell me whose signature is on the check?

5 A Looks like mine.

6 Q Are all of them yours?

7 A It looks like most of them are.

8 Q What?

9 A I used to sign the back of the check.

10 THE COURT: I didn't understand the answer.

11 Is it your signature on the back of each check?

12 THE WITNESS: Yeah, I used to sign the back of the
13 check.

14 BY MR. NELKIN:

15 Q All right. And did all of these checks go into
16 Mr. Friedman's account?

17 A No idea what he did with them.

18 Q But none of them went into your account?

19 A Right.

20 Q Okay. And all of them were given back to Mr. Friedman
21 after you endorsed them?

22 A Yes.

23 Q Did you get any sort of tax paperwork from Twin Rivers; a
24 W2, a 1099?

25 A I don't know. I gave -- I used to give my bills to

Nussbaum - Direct - Nelkin

1 whoever did my taxes. I didn't really need them.

2 Q What do you mean they didn't need them?

3 A I don't know. He doesn't need the 1099, as far as I
4 understand, I'm not a tax person, but as far as I know.

5 Q Are you a -- do you work individually or as a company?

6 A Individually.

7 Q And do you report this, these funds from Two Rivers?

8 A Yes.

9 Q But you're unaware if you have a 1099?

10 A Right. I don't -- I mean, I give it to whoever the
11 person doing my tax.

12 Q And would he have it --

13 THE COURT: I'm sorry, say that again.

14 A I give my bills to the person that does my taxes. I
15 don't know.

16 Q And would that person have a copy of any 1099 or W2 that
17 you received?

18 A I have no idea. I don't know if he needs it.

19 Q Who is that person?

20 A My sister takes care of my taxes. She's an accountant.

21 Q And does she work at a firm?

22 A Right now, yes.

23 Q What firm is that?

24 A She's not working as a accountant, she works at Goldman
25 Sachs.

Nussbaum - Direct - Nelkin

1 Q So she does your taxes on the side?

2 A Yes.

3 Q Was she ever employed as a standalone accountant?

4 A Yes. Standalone for herself?

5 Q Or with a firm.

6 A She worked for E&Y.

7 Q I guess my question is: At the time you were being paid
8 by Two Rivers and she was doing your taxes, was she at Goldman
9 Sachs or somewhere else?

10 A I think she was by Goldman Sachs, but I don't remember.

11 Q And what's her position at Goldman Sachs?

12 A She's banking regulation, I think, but I don't know.

13 Q And what's her name?

14 A Dina Nussbaum. D-I-N-A.

15 Q What type of training do you have?

16 A I've taken online courses; Network+; CCNA, which is the
17 system network certification. Part of our -- I never finish
18 my Microsoft certification. I've taken part of it.

19 Q And what's your educational background?

20 A Yeshiva.

21 Q Have you taken any computer courses in high school or
22 college?

23 A No.

24 Q Did you go to college?

25 A No.

Nussbaum - Direct - Nelkin

1 Q When did you first begin providing IT services to the
2 defendant?

3 A Exactly I don't remember. It's probably about five years
4 ago.

5 Q And how did it come about that you were hired to do work
6 for the defendants?

7 A Someone recommended me. Originally it was to --
8 basically to change passwords and reset things. It was
9 supposed to be just a one-time thing. It just turned into
10 doing more work.

11 Q And was the connection through Mr. Friedman?

12 A Mr. Friedman called me. I know his son. I don't
13 remember exactly who originally.

14 Q And did you know him before you started working for him?

15 A No, I did not.

16 Q Now, are you being -- it's my understanding that you're
17 also here as -- on behalf of a number of the defendants to
18 testify about their computer systems; is that correct?

19 A Yes.

20 Q And are you being compensated for that?

21 A I haven't asked for anything, no.

22 Q Do you expect to be compensated?

23 A I never even thought about it, actually.

24 Q And I notice you have a lawyer. Who's paying for that
25 lawyer?

Nussbaum - Direct - Nelkin

1 A He's a friend. Nobody's paying for him.

2 Q I understand. Okay.

3 How long have you known Mr. Goldfarb?

4 A A long time. Ten years probably. Over ten years.

5 Q Did you go to Yeshiva together?

6 A Yes.

7 Q Which Yeshiva was that?

8 A He was in -- when I was in Torah Termimah, he was in
9 the -- they have higher education Yeshiva and then basically I
10 was Bais Yosef.

11 Q How long were you at Bais Yosef?

12 A No idea. Ten years.

13 Q And I notice that you listed a number of their rabbis on
14 your résumé.

15 A Yes.

16 Q Do you know -- I mean, do you have good relationships
17 with those --

18 A I think so.

19 Q Do they have a --

20 A They do not.

21 Q They don't have a Bais in Bais Yosef.

22 A No.

23 MR. SCHAFHAUSER: Your Honor, objection to this line
24 of questioning. There's no relevance to the issue at hand.

25 MR. NELKIN: I just was trying to establish the

Nussbaum - Direct - Nelkin

1 relationship between the defendants, and Mr. Friedman had gone
2 to Bais Yosef.

3 THE WITNESS: There's absolutely no connection
4 between yeshivas at all.

5 THE COURT: Next question.

6 BY MR. NELKIN:

7 Q Now, you've also produced an affidavit in this --
8 actually, several affidavits in this; is that correct?

9 A Two I think.

10 Q Okay. Were you compensated for your time in producing
11 those affidavits?

12 A I didn't think about it.

13 Q How much time did you spend on those tasks?

14 A The actual writing? Well, I didn't write it, my lawyer
15 wrote it, but I spent the time going through the computers.

16 Q Okay. So how much time did you spend with respect to the
17 first affidavit?

18 A What's the first one? Which one is the first one?

19 Q I was talking about -- well, let's say -- how long did
20 you spend on the second one?

21 A I went to the Bronx and to Brooklyn. I checked all the
22 computers, see what they were. And I mailed this. Then I
23 worked with my lawyer to write it up. A number of hours.

24 Q And on your -- did you go to the Bronx and to Brooklyn on
25 particular occasions?

Nussbaum - Direct - Nelkin

1 A I did.

2 Q Do you remember what days you went?

3 A It was -- I don't remember the exact date, no.

4 Q And do you remember how long you spent in each location?

5 A Enough time to check every computer and to make a list of
6 what it was.

7 Q And when you say check each computer, what does that
8 mean?

9 A I looked at what it was. If it wasn't hardware, some of
10 the hardware used. I looked at what it was, and then wrote
11 down what it was. Most of them I knew what it was because I
12 had, you know, done some fixing on them. But I checked them
13 all just because I was instructed to do so, make sure I know
14 exactly what they are in my affidavit.

15 Q Let's turn to your affidavit, Exhibit 110.

16 Now, if you look at the last page, it says --
17 there's a fax line at the top and then there's a notation at
18 the bottom.

19 Can you tell me what those two are? First the fax
20 line?

21 A Yes, I faxed over -- I signed it and I faxed it over
22 to -- I don't know I faxed it to my lawyer or to the -- I
23 faxed it over to Paul or to my lawyer so he could file it. I
24 don't know. But it was early Shabots, you know, on Friday
25 late. You see the time, I had a -- they needed to file it so

Nussbaum - Direct - Nelkin

1 I signed it and I faxed it over.

2 Q And how many drafts of this were there?

3 A The exact amount, I can't answer how many drafts. I
4 mailed this on paper, then I gave it over and they worked out
5 the -- they wrote it up into legalese.

6 Q And by "they" you mean --

7 A My lawyer did it and then he sent it to Paul and he did
8 the filing.

9 THE COURT: Your lawyer or their lawyer?

10 THE WITNESS: My lawyer.

11 BY MR. NELKIN:

12 Q But who sent it to the 973 number? You or --

13 A Actually, I don't remember where I faxed it. If I faxed
14 it to Paul because it was getting late and he told me he had
15 to file it. You know, it was getting close to sundown.

16 Q And did you show it to anyone besides your lawyer before
17 the defendant?

18 A Did I show it? No.

19 Q Do you know if your lawyer showed it to anyone?

20 A No.

21 Q Now, can you tell me -- let's just turn to page 3.

22 Let's start with the oil computer.

23 Can you tell me what the name of that computer is on
24 the computer?

25 A No, I don't know what the name is.

Nussbaum - Direct - Nelkin

1 Q Can you tell me who the users of that computer are?

2 A Talking about Mr. Friedman's? Which one?

3 Q I'm talking about office used by Sonia Rivera.

4 A Sonia Rivera used it.

5 Q Are there any other users on that computer?

6 A Meaning are there any other users that have logged in

7 there? Probably an administrator that's logged in there.

8 When I first tried to work on there, I had to log in as

9 administrator.

10 Q Do you know if there are any other users listed on that
11 computer?

12 A No.

13 Q Do you know who the users are on any of the computers
14 that are in your affidavit?

15 A Pretty much. I mean, I know them by face. I may not
16 know the names.

17 Q Well, let's go to the -- you're telling me that you know
18 the particular user names on each of the computers?

19 A Yes.

20 Q Okay. Let's just take a look at the old corporate
21 computers that Miss Rivera used.

22 A Okay.

23 Q Do you know what the user names were on that?

24 A There's, I think, Dov, Emil. It said office. And I
25 think it said Sonia.

Nussbaum - Direct - Nelkin

1 Q You think it said Sonia or you know?

2 A I think -- I believe so.

3 The user -- the only user name that was being used
4 was the one that was said office, as far as I know.

5 The computer originally came -- that was an old
6 computer, it originally came from Brooklyn so they had old
7 user names on it that weren't being used.

8 Q But you're saying that Sonia's computer had Sonia listed
9 as a user on it?

10 A I think so offhand, I don't -- I believe so.

11 Q Okay. But in your report you didn't write down the user
12 names of any of the users of these computer; is that correct?

13 A Because the user name is not what matters, it's the
14 person that's on the password protector, it's just what's on
15 there.

16 Q You're saying these users are not password protected, you
17 don't have to put a Windows password or something in?

18 A Some of them are and some of them are not. Sonia's I
19 think is.

20 The ones that are attached to oil are attached to
21 domains.

22 Q Let's just go through them one by one.

23 On the office used by Sonia Rivera, can you tell me
24 who the user names are on the oil computer?

25 A Sonia.

Nussbaum - Direct - Nelkin

1 Q Sonia.

2 A Probably administrator also.

3 Q And what about the new computer?

4 A That was also Sonia.

5 Q Okay. What about the old corporate computer?

6 A That one had a few that were left over from Brooklyn. So

7 you had Dov. That was from Brooklyn. I think it had Emil.

8 That was the set up for LogMeIn. When you logged into the

9 computer, you have to create user even though it's generic.

10 When you log into a computer, you must use that.

11 THE COURT: That was for LogMeIn?

12 THE WITNESS: Yes. If you want to LogMeIn in the

13 computer, so then you need a user there, even though it's not

14 being used.

15 And you can verify that. That user name was never

16 actually used. You have to create a computer management by

17 how many users, and you need to create user name and password,

18 even though nobody ever actually logs into that user name.

19 Q It says that there's a computer removed from active use

20 and preserved for safekeeping.

21 Do you know the user names on that one?

22 A I think it says office. I mean I don't remember offhand.

23 I could recognize it if I saw it, but I don't remember exactly

24 the names.

25 Q And how did you determine the user names on that computer

Nussbaum - Direct - Nelkin

1 if it was preserved for safekeeping?

2 A What do you mean by that? It wasn't used. It was
3 disconnected from the network. The only time I had to
4 verify --

5 Q So you turned it on and what did you do?

6 A I just looked at the screen. I know from the screen
7 which computer it was.

8 Q You looked at --

9 A I looked at the log screen, and from the log screen I
10 knew which computer it was.

11 Q I did not ask you what type of screen it was.

12 A The log screen. When you turn on a computer, when you
13 put in a password, that's called a log screen. Once you see
14 that, you can recognize. If you working with computers, most
15 people recognize what computer that is.

16 Q And did you access the password?

17 A Actually log in to look at main screen, I don't remember.

18 THE COURT: When was this?

19 THE WITNESS: This was -- when they told me I needed
20 my affidavit, I turned it on to verify what it was.

21 THE COURT: Do you remember about how long before
22 your affidavit?

23 THE WITNESS: A few days.

24 THE COURT: And you went to the office to do that?

25 THE WITNESS: Yes.

Nussbaum - Direct - Nelkin

1 THE COURT: Go ahead, sir.

2 BY MR. NELKIN:

3 Q And do you remember the location that you -- that that
4 computer was in the office?

5 A Yeah, it was put in the corner of Mr. Friedman's office.
6 It was taken out of Sonia's office and put in the corner of
7 Mr. Friedman's office.

8 Q And how did you get into Mr. Friedman's office?

9 A It wasn't locked.

10 Q It wasn't locked?

11 A No.

12 Q And so you took the computer, and then you plugged it in?

13 A Plugged it in, I plugged the screen into it. It wasn't
14 connected to it. I verified what it was.

15 Q And do you know what the password was for the computer?

16 A Sonia's computer, yeah, I believe so.

17 Q What was it?

18 A I think that one was Cafe 9474. That's off the top of my
19 head.

20 Q Can you describe Mr. Friedman's office?

21 A Desk. Computer. Few computers under the desk. Some are
22 old. Some are being used and some are not.

23 Q How many computers are there?

24 A There's his computer that he works on for the oil
25 companies. There's computers that MB Transport for the

Nussbaum - Direct - Nelkin

1 trucking companies, which I had nothing to do with, I just
2 turned it on to see what it was when I had to make my
3 affidavit. There's an old computer sitting there under the
4 desk. And then I think there's an old computer -- another
5 computer that the programmer used to use, the Word program.

6 Q Did you have a list of passwords for these computers?

7 A These weren't password protected. You don't need it.

8 One password. If you have an administrative password, the
9 computer is the actual domain, all you need is one password.

10 But the MBT had no password on it. The old computer, that
11 originally had been part of the domain, so the domain password
12 works.

13 Q So from Mr. Friedman's computer, you can go to anything
14 on the network?

15 A No, you can't just get over it. If you logged in as
16 administrator, you can. But not if you logged in as
17 Mr. Friedman.

18 And he would have no idea how to do that.

19 Q Who was the administrator?

20 A Me.

21 Q For all the companies?

22 A Yes.

23 Well, not for the MV Fuel, any of the trucking
24 companies. That was in a separate office, except for that one
25 computer sitting under Mr. Friedman's desk. I don't think it

Nussbaum - Direct - Nelkin

1 was being used for anything. I don't even think it was
2 attached to the network. The other one had nothing to do with
3 the trucking companies.

4 Q And how long did you spend on each computer?

5 A Enough time to log in and see what it was, verify what it
6 was.

7 Q And so you accessed all of Sonia's computers?

8 A All of Sonia's computers, yes.

9 Q Okay. And all of those had the user name Sonia on them?

10 A I believe so.

11 Q And all right, let's go to the next one, the office used
12 by 24 Hour --

13 THE COURT: Wait, before you move off. I didn't
14 understand.

15 You said there were a couple of computers under the
16 desk?

17 THE WITNESS: Yes, old computers there.

18 THE COURT: And did you open up those?

19 THE WITNESS: Yeah, I did, I checked them.

20 THE COURT: Go ahead.

21 BY MR. NELKIN:

22 Q The office used by 24 Hour Oil Delivery Corp., who used
23 those computers?

24 THE COURT: Dorothy. Cindy. Computers still
25 sitting there, I haven't seen her in a while. And then

Nussbaum - Direct - Nelkin

1 there's -- last hard name, the one that sits -- I forget her
2 name, the other that sits the other end of the hall.

3 (Continued on next page.)
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NUSSBAUM - DIRECT - NELKIN

1 BY MR. NELKIN:

2 Q Okay. Back to Ms. Rivera's office. Can you tell me what
3 type of computers those were, like what model or manufacturer?

4 A One was a Dell. I believe the other one was an HP.

5 Q But there are four?

6 A One was a Dell, one was an HP. Well, the new computer,
7 the HP, that one I bought, that was bought recently. The
8 other computer is a Dell. The other computer I believe is a
9 Dell. And the computer that we removed for safekeeping I
10 believe is also an HP.

11 THE COURT: Sir, you must slow down. You're going
12 to have to testify two or three times for every answer if you
13 don't.

14 THE WITNESS: Okay.

15 Q The office used by Mr. Friedman, so he had, as I counted,
16 four computers in that office?

17 A Four computers, yes.

18 Q Okay. Were those -- what were the user names on those
19 computers?

20 A Well, the oil company has Mr. Friedman. The computer
21 used by MB Transport didn't have a password so you don't
22 really see the user name unless you actually have to do
23 something so I don't know. Computer no monitor and no access,
24 that one just said administrator. The other one says computer
25 for testing just says administrator.

NUSSBAUM - DIRECT - NELKIN

1 Q If you had no monitor or no access, how did you access
2 it?

3 A I plugged in another monitor and a keyboard to see what
4 it was.

5 Q And what about the old oil computer for testing?

6 A I also did plug in the monitor.

7 Q Okay. And what about the office used by Lawrence Ahearn?
8 Do you know who the user names on those were?

9 A Yeah. Larry.

10 Q For all three?

11 A Yes.

12 Q What about --

13 A Well, the oil is just as an administrator. Nobody
14 actually accesses --

15 THE REPORTER: I'm sorry, your Honor. I am not
16 hearing him well or understanding.

17 THE COURT: Sir, I want to make clear something to
18 you. I have told you many times now, if don't slow down, what
19 we're going to do is he is going to tell you the answers and
20 you are going to write down or type in by hand your answers.
21 But we have to be able to make a record of what you say out of
22 fairness to you so that we understand what your answers are.

23 THE WITNESS: No problem.

24 THE COURT: Please, slow down.

25 THE WITNESS: It was a computer, it was an

NUSSBAUM - DIRECT - NELKIN

1 administrator only. Nobody has access to that. It is just an
2 office database --

3 THE COURT: Is there another language you speak more
4 fluently?

5 THE WITNESS: English.

6 THE COURT: Okay. Then speak English slowly. Keep
7 in mind that you are making a record of every word, and you
8 have to help us make that possible.

9 Q What was --

10 THE REPORTER: I'm really not understanding him.
11 Sorry, Judge.

12 THE COURT: Let's take a break, please. I am
13 telling you out of wanting to spare you greater effort. If we
14 can't find a way for your oral testimony to being taken down,
15 it's going to be a much more cumbersome process.

16 Go ahead.

17 We'll take a break within the next ten minute].

18 MR. NELKIN: We're back on the record?

19 THE COURT: Yes.

20 Q The oil server computer, you said it had a database on
21 it. What is that database?

22 A It's -- what do you mean? It holds his oil information.
23 I'm not a programmer so I can't really, you know, go for the
24 database. I just know it had a database that was controlled
25 by a program called PowerBuilder.

NUSSBAUM - DIRECT - NELKIN

1 Q PowerBuilder. Are you familiar with the corporate
2 system?

3 A Not really, no. I know it existed. A couple of times
4 when there was an issue, they had me call so that the other
5 person could just tell me what to do, the person who
6 controlled it.

7 Q Who controlled it?

8 A Whoever owned it. I don't remember that.

9 Q Could it have been Academy?

10 A Could have been Academy.

11 Q Okay. Are they in Brooklyn?

12 A I have no idea.

13 Q Okay. Do you know where that program resided?

14 A It was residing on the old corporate computer, I believe.

15 Q Okay. So it was on the computer, the old corporate's
16 computer?

17 A Correct, I believe so. Not server, just a computer.

18 Q Okay. What about the Launch system? Where was that
19 located?

20 A What do you mean by "the Launch system"? You mean, the
21 database or you mean the ability to log on to the computer?

22 Q The database.

23 A He had it.

24 Q Was that ever -- did that location ever change?

25 A He used to change it based upon the ability to access it

NUSSBAUM - DIRECT - NELKIN

1 because Internet connection problems.

2 Q Tell me all the locations that you know that it was
3 accessed.

4 A I know it was located, he had it located on some server
5 that he rented somewhere. I also know he did have it for a
6 time located at Two Rivers because he had a bad connection
7 going out.

8 Q Okay. Who determined when it would be removed from one
9 location and transferred to another location?

10 A Mr. Rogosnitzky did it.

11 Q Okay. How was it removed from the Two Rivers systems?

12 A He would take the database and would just transfer it.
13 I'm not a programmer so I'm just saying what my basic
14 understanding is. But he would just take the whole database
15 and move it.

16 THE COURT: How do you do that physically?

17 THE WITNESS: Just copy the file. It's a big file
18 and just copy it, and you transfer it to someone else.

19 THE COURT: You copy it into a portable storage --

20 THE WITNESS: No. He is not on location. He was
21 never there. He would just log in remotely and then he would
22 copy it to whoever he copied it.

23 THE COURT: So you copy it into a file and send that
24 file --

25 THE WITNESS: EFile transfer or some protocol to

NUSSBAUM - DIRECT - NELKIN

1 send it somewhere else.

2 THE COURT: Thank you.

3 Q Did you ever assist him in copying the system?

4 A No. I had nothing to do with -- I brought the servers
5 there, I set up the physical boxes and then he dealt with the
6 actual software.

7 Q Did you ever do anything to remedy problems with that
8 system?

9 A With connections, yeah, connections to it, yeah, not with
10 actual database.

11 Q Okay. Did it ever get transferred to any other location
12 under the control of the defendants?

13 A Not that I know about, but you have to speak to Yossi
14 Rogosnitzky about that.

15 Q Can you tell me what Launch is.

16 A Launch is an accounting -- full accounting program. It
17 does payroll, it does account receivables, it does account
18 payables. It keeps track of the records, prints checks. It's
19 just a full accounting program.

20 Q So it's a very comprehensive program?

21 A Yes, it is.

22 Q And it stores a considerable amount of data?

23 A It stores all the data that you enter into it.

24 Q Now, the computers that you referenced -- well, let's
25 just finish going through the list.

NUSSBAUM - DIRECT - NELKIN

1 The office used by Ms. Ezell, do you know the user
2 name on that computer?

3 A I believe it's Sylvia, but she had no password. So when
4 you have no password you don't see a user name, you just see
5 the main screen.

6 Q Were there any other users on that computer?

7 A I didn't go through and check. There might have been for
8 the same reason because of logging in. You have to log into a
9 computer. You need to create a user in the computer
10 management even if it's not used.

11 Q Does LogMeIn create a separate user name that's
12 identifiable with a LogMeIn user?

13 A Well, it creates a little program. I don't know if it
14 creates a separate user.

15 Q Okay. Do you know where Mr. Friedman was logging into?

16 A When he had to log in, he would log into that computer.

17 Q Yeah. But from where was he logging into?

18 A Wherever. I can't answer that.

19 Q Do you -- what about the office used by John Ahearn? Who
20 is the user name on that?

21 A Jack.

22 Q Jack. Have you ever met Mr. Ahearn?

23 A He hasn't come to the office for years. I think I met
24 him once back when I first started.

25 Q When you say hadn't come to the office for years, what do

NUSSBAUM - DIRECT - NELKIN

1 you mean?

2 A I mean, I'm not there -- I go there maybe once every two
3 weeks, but I haven't -- we have never, you know -- as far as I
4 know, he doesn't come to the office.

5 Q Okay. When about this minicomputer you talked about?

6 A That was an old laptop that sat in the cafeteria. When
7 John used to want to come, he used to want to watch
8 television. That was the only place that had television that
9 he could work so that was his little computer. It was a
10 little laptop.

11 THE COURT: Sir, I'm going to have to ask -- sorry
12 to interrupt at this convenient point.

13 Let's take our 15-minute break. Come back at 11:05.
14 (Recess taken.)

15 THE COURT: All right. Everybody is here.

16 You ready? Let's continue.

17 Q Mr. Nussbaum, did you ever work on a minicomputer?

18 A On what?

19 Q On any minicomputer for any defendant.

20 A I once fixed, I think, the printing for it which was
21 years ago.

22 Q And for whom did you do that?

23 A For Jack, I believe.

24 THE COURT: May I ask a question. So that I'm
25 clear, any time you're talking about a minicomputer, you're

NUSSBAUM - DIRECT - NELKIN

1 referring to a laptop?

2 THE WITNESS: Yeah.

3 THE COURT: Thank you. Go ahead.

4 Q All right. In the Brooklyn office, you've identified a
5 number of computers. Can you tell me what the user names were
6 on those?

7 A Brooklyn office again has no passwords on any of the
8 computers so I don't know if there's any user names. Maybe I
9 just set them up with client.

10 Q The computers that you said had old user names on them,
11 where did those computers come from?

12 A I believe Brooklyn, but that would be before my time.

13 Q So your testimony is that they might have historically
14 had user names, but currently they don't have user names?

15 A Correct.

16 Q Now, did you keep a list of passwords for these
17 companies?

18 A User names or -- I don't keep user names' passwords on
19 computers that have user names. Some of them I knew by heart
20 because I helped them, but Mr. Friedman used to call me three
21 times a day for his password so his I knew.

22 Most of them, particular users, you don't keep. You
23 keep the administrative password, its own password you need.

24 Q How did you learn Mr. Friedman's password?

25 A He told it to me.

NUSSBAUM - DIRECT - NELKIN

1 Q And so you just chose to remember it because he couldn't?

2 A Because he used to call me three times a day at least.

3 Q What about server passwords? Did you write those down
4 anywhere?

5 A I did keep them in an e-mail. I believe they were in my
6 e-mail. I think I sent Mr. Friedman the password just as a
7 record back in the day.

8 Q What about LogMeIn passwords?

9 A The LogMeIn passwords, once you get into LogMeIn, once I
10 installed it on the computer, the password that you would use
11 is the password to the computer.

12 Q Which computers did you install LogMeIn on?

13 A Well, Intuit because I installed it on most of them.
14 Because they would call me sometimes I would have to work
15 remotely so I would log in remotely.

16 Q When you say "most of them," how many computers is that?

17 A Offhand, I mean, the computers in the office upstairs,
18 downstairs they had in the shipping office I think two
19 computers.

20 Q Did you install one on Mr. Friedman's son's computer?

21 A Did I install LogMeIn on his computer? I don't believe
22 so.

23 Q What about on Mr. Friedman's computer?

24 A Yes.

25 Q Did you install it on more than one of Mr. Friedman's

NUSSBAUM - DIRECT - NELKIN

1 computers?

2 A What do you mean? In Two Rivers?

3 Q Anywhere.

4 A His other computers had LogMeIn, yes.

5 Q Okay. Which computers of Mr. Friedman did you install it
6 on?

7 A His computer in the Bronx has it. I think I have it on
8 the computers in Brooklyn.

9 Q When you say "computers in Brooklyn" --

10 A He doesn't have a computer in Brooklyn. When he comes,
11 he usually uses Rosie's computer. Rosie is the one who sits
12 by the front desk.

13 Q What about at his house?

14 A Did I install? I believe I installed it on his house.

15 Q Okay. What type of computer setup does he have in his
16 house?

17 A Just a regular desktop with a screen.

18 Q Where is it located?

19 A In his office.

20 Q Okay. Do you know the user name on that?

21 A I don't.

22 Q Okay. And do you know what that is used for, what
23 companies he uses that one for?

24 A I think he just uses it to check his e-mail as far as I
25 know. That's the only thing he's ever called me about.

NUSSBAUM - DIRECT - NELKIN

1 Q Did you check that one when you prepared your affidavit?

2 A I did not go there, no.

3 Q And had you ever studied that computer?

4 A Did I ever study it? No.

5 Q Did you ever look to see what's stored on there?

6 A No.

7 Q Okay. Did you -- when you looked at these computers that
8 you were evaluating for your affidavit, did you look to see
9 what was stored on them?

10 A Did I go through all the documents? No. But the ones
11 that are on the oil computers, I saw the oil icons, I know
12 they are oil computers. Sonia's computer, I mean, I set it
13 up, I know what was on it. The individual documents, no, I
14 didn't study every individual document on the computers.

15 Q So you would have no way of determining whether or not
16 there were Two Rivers documents on it or not?

17 A No. But I would know what they were used for. So if
18 someone actually did something on there, obviously I can't
19 know that, but I know what they were generally used for, what
20 it was set up for and what the person uses it for.

21 Q Could you tell me what e-mail accounts were installed on
22 Sonia's computer?

23 A She used Yahoo so you don't really install it on a
24 computer. It's on the Internet.

25 Q Do you know if she ever saved her e-mail to her computer?

NUSSBAUM - DIRECT - NELKIN

1 A As far as I know, no.

2 Q What about Ms. Ezell?

3 A Ms. Ezell, I'd set it up recently when she needed to
4 produce the documents for the -- she never had it until
5 recently when she needed to produce the documents for the
6 lawyer. The easiest way to do it is to set up a client,
7 download the e-mails and then I print them. That's when I
8 saved them. That's when it was put on the computer. Quite
9 recently. Until then she logged into AOL account.

10 Q Do you know if she would -- her e-mail would have been
11 saved on any other computer?

12 A No.

13 Q Okay. What about -- can you explain exactly what you did
14 with respect to setting up that e-mail account.

15 A I didn't set up the e-mail account. I set up a client,
16 Thunderbird actually, to download e-mails so you could print
17 them, so she could sort through them and print them to see
18 what her lawyer requested.

19 Q Okay. And how many e-mails were there in there?

20 A Thousands.

21 Q And when did you set that up?

22 A Probably within the last six weeks. When was Richard
23 Finkel asked, he needed -- he wanted to go through the record,
24 her e-mails.

25 Q And you said that was Thunderbird?

NUSSBAUM - DIRECT - NELKIN

1 A Yeah. Thunderbird is a client like Outlook. Just a free
2 one.

3 Q Did you ever set that up for anybody else?

4 A Not that I recall, no.

5 Q Did you ever store e-mails for anybody else?

6 A Not that I recall.

7 Q Do you know if anybody else, any of these computers, have
8 anyone's e-mails stored on them?

9 A I don't believe so. I mean, I can't say if someone
10 actually -- if you open Yahoo and you download a -- you open a
11 document, there might be a temp file that gets saved on the
12 computer. But it's an online e-mail based system.

13 Q And when you evaluated the computers, you didn't check
14 for that?

15 A I didn't check the temp files at all. Temp files get
16 deleted immediately.

17 Q Who asked you to produce that file?

18 A Thunderbird. Richard Finkel asked Sylvia if she could
19 put together her e-mails. She called me and asked me how she
20 could go about doing it.

21 Q And what did you do besides -- did you do it or did
22 someone else do it?

23 A I just -- I did it. I set up Outlook -- not Outlook,
24 Thunderbird.

25 Q So you went to her computer and set it up?

NUSSBAUM - DIRECT - NELKIN

1 A (Witness nods.)

2 Q And what did you do with that file afterwards?

3 A It's probably still on the computer.

4 Q Did you save it in any way or --

5 A You don't save. Just left the Thunderbird client on it.
6 Didn't touch it.

7 Q Why couldn't she just access her e-mails one at a time?

8 A It's just very hard. You have thousands of e-mails to go
9 through one at a time to print. It's much easier on the
10 client to leave it all on the computer.

11 Q Do you know if she did print them out?

12 A I have no idea.

13 Q And how did you -- do you move them from someplace or do
14 you just set up a program and it automatically does it?

15 A It automatically does it. It uses IMAP, which is a
16 protocol that pulls the data from the Yahoo server. She used
17 AOL. Pulls it from the server.

18 Q Okay. And were you asked to separate out any e-mails?

19 A No, I wasn't asked. I assume she did it. I have nothing
20 to do with it.

21 Q And did you review the e-mails in any way, shape --

22 A No.

23 Q Now, I'd like to ask you about paragraph 10 of your
24 affidavit.

25 A Yes.

NUSSBAUM - DIRECT - NELKIN

1 Q It says the only way such computers could have been used
2 to access the information would have been via remote log-in in
3 which case all records and data would be on the remote
4 computer, not those computers.

5 A Correct.

6 Q Why would that apply to Ms. Rivera's computer?

7 A I don't understand what you're asking.

8 Q Well, was Ms. Rivera's computer ever located at Two
9 Rivers?

10 A No.

11 Q Ms. Rivera's computer was never at Two Rivers?

12 A Never.

13 Q Okay. Do you know if Ms. Rivera ever was located at Two
14 Rivers?

15 A She once drove Sonia because she didn't want to drive
16 alone the first time she came. That was the only time she
17 went there.

18 Q By Ms. Rivera, I mean Sonia.

19 A Oh, Ms. Rivera. I'm sorry. I thought you were talking
20 about Sylvia. I apologize.

21 No, Ms. Sonia was there and her computer was brought
22 to Two Rivers going back to what I said before.

23 Q And when it was at Two Rivers, how did it access?

24 A It was on the local network.

25 Q So it would not be accessing it remotely?

NUSSBAUM - DIRECT - NELKIN

1 A Well, not when it was there.

2 Q Okay. And does that mean that when it was there, it
3 would be storing information?

4 A What do you mean by "information"?

5 Q Well, you said that if it's accessing it remotely, then
6 all --

7 A I was referring to computers in the Bronx, not the one
8 that was -- not the computer. I think I made that clear. Any
9 computer that's not on location. When it was there, yes, it
10 was used for Two Rivers, there's no question about it. Nobody
11 is arguing about that computer.

12 Q Okay. And that's all I'm asking is, as a computer
13 person, if it was --

14 A On location, then, yeah, if it was on location. If it's
15 not, there was no discussion about that.

16 Q And did you -- are you aware -- you mentioned that the
17 Launch system was shifted around by Mr. Rogosnitzky.

18 A Right.

19 Q How would the computers that were accessing that system
20 know what to do when that happened?

21 A You have to speak to him, but I assume it just goes to
22 the server or any local server or the router and just bounces
23 it to wherever. You don't have to make changes on the
24 computer. You can, but -- you could change IP on each
25 individual computer, but you don't have. Just have it bounce

NUSSBAUM - DIRECT - NELKIN

1 to wherever it gets moved to.

2 Q And you don't have to do anything on the local --

3 A Correct.

4 Q -- on the terminals?

5 A Correct.

6 Q They just automatically find where the computer --

7 A Right. Because it continued going to the original
8 server, and then it just bounces to wherever it has to go.

9 Q But does someone have to do something to the server to
10 tell it to bounce to where --

11 A I don't know.

12 Q Now, you say in paragraph 9 in your thing that Two Rivers
13 data was IP address secured by an incoming filter.

14 A Correct. That was to access it if you want to access it
15 from the outside.

16 Q Okay. So do you know which computers were authorized to
17 access it?

18 A No computers were authorized from the outside to access
19 it. The only thing that you were able to do was you were able
20 to print from the outside to there.

21 Q Well, what about Ms. Rivera's computer when she moved to
22 the Bronx?

23 A She used to log in from LogMeIn so that's the same if
24 you're still sitting in the location. You're not outside the
25 network. You're still inside the network. Once you get on to

NUSSBAUM - DIRECT - NELKIN

1 the local computer with LogMeIn, it's as if you're sitting
2 there in the location.

3 Q Now, but then she moved her computer, both computers, to
4 the Bronx. So how would she access --

5 A She had one computer in Two Rivers that was moved to the
6 Bronx.

7 Q She had what?

8 A She had one computer in Two Rivers that was moved to the
9 Bronx, not two.

10 Q Well, she had one in Two Rivers that was moved.

11 A It was moved back to the Bronx, right.

12 Q Okay. So from the time she was in, where was she -- what
13 was she logging into?

14 A When she was --

15 Q She had a computer in Two Rivers that she was utilizing.

16 A Correct.

17 Q And that's going directly in, I think we've established,
18 that goes into the Two Rivers System?

19 A Correct.

20 Q She now moves that computer to the Bronx?

21 A Right.

22 Q How does she access Two Rivers in the --

23 A I think Two Rivers, she set it up by the way he set it up
24 for you now. It was set up remotely. You don't have to
25 actually log in to Two Rivers. You just log into the Launch

NUSSBAUM - DIRECT - NELKIN

1 system the way it is now.

2 Q Do you know where it is now?

3 A I have no idea. I have no idea.

4 Q Now, Mr. Schafhauser provided some information to us as
5 to how to log into the Launch system.

6 A Correct.

7 Q And I believe that came from you.

8 A Correct.

9 Q Where did you obtain that?

10 A I got it from Yossi.

11 Q And how did you get it from Yossi?

12 A I called him on the phone.

13 Q You've been communicating with Mr. Rogosnitzky?

14 A I do when I have to ask him a question, yes.

15 Q Besides phone, did you ever communicate by e-mail?

16 A Mostly he just says please call me. That's pretty much
17 all.

18 Q What's his phone number?

19 A Offhand, I don't know. It's 011952 -- I don't remember
20 offhand.

21 Q Does he call you?

22 A Sometimes.

23 Q Do you use that on your cellphone or landline?

24 A I usually call through Google Voice; I'm calling through
25 my computer.

NUSSBAUM - DIRECT - NELKIN

1 Q And is there any record that that leaves?

2 A It might be. I mean, I can try to look through Google
3 Voice and see if it is.

4 Q Have you ever met him personally?

5 A Sure.

6 Q What's your relationship with him?

7 A He's a friend of mine.

8 Q From how long?

9 A Probably ten years.

10 Q Where did you meet?

11 A In Yeshiva.

12 Q Did he used to live here?

13 A He lived with his parents in Lakewood, New Jersey, yes.

14 Q Did you live in Lakewood?

15 A No. Well, I dormed there for a time.

16 Q And how long has it been since he moved to Israel?

17 A Probably five years at least, more.

18 Q Who had the first contact with Mr. Friedman, you or
19 Mr. Rogosnitzky?

20 A Regarding what?

21 Q Regarding computer work. Who started working for
22 Mr. Friedman first?

23 A I can't answer you. I mean, it's possible he was working
24 with him before.

25 Q You don't remember if when you started he was already

NUSSBAUM - DIRECT - NELKIN

1 working?

2 A I don't know. I mean, we do different things. I mean,
3 we're friends, but I can't answer you.

4 Q Mr. Rogosnitzky I believe has referred to you as sort of
5 his onsite person.

6 A Okay. That was at Two Rivers.

7 Q You don't serve that function for any of the other
8 companies for Mr. Rogosnitzky?

9 A Well, I work for 26 Flavors, but he doesn't really do
10 anything for the other companies as far as I know.

11 Q Who -- which companies did he supply computer services
12 to?

13 A How can I answer that? I don't know his client list.

14 Q Based on -- of the defendant's.

15 A Well, I know 26 Flavors and he supplied to Two Rivers.

16 Q And what did he supply to 26 Flavors?

17 A An accounting program.

18 Q Was it a Launch system?

19 A It was similar. It was much less robust. It didn't have
20 inventory, didn't have tracking, didn't have shipping
21 capabilities.

22 Q Does he still supply that?

23 A I believe so.

24 (Continued on the next page.)

25

DIRECT - NUSSBAUM - J. NELKIN

1 DIRECT EXAMINATION

2 BY MR. NELKIN:

3 Q Do you know where that's housed?

4 A I do not.

5 Q You said you had handled connection issues?

6 A Network stuff.

7 Q When people had trouble connecting to Launch?

8 A Correct.

9 Q Can you explain -- did you ever have to deal with any
10 server issues relating to the connection by --

11 A What do you mean server issues?

12 Q If someone is having a connection problem with Launch,
13 would that ever require you to investigate anything regarding
14 the server?

15 A Only to see if something was -- if it was -- when it was
16 located online, to make sure the server was online but more
17 than that, no.

18 Q Was the Launch system ever in the Bronx?

19 A I don't believe so.

20 Q I'd like to refer you to an exhibit. Did you ever help
21 Mr. Papa with --

22 A Yes, I did.

23 Q With connection problems?

24 A I did.

25 Q Can you turn to Exhibit 74, please.

DIRECT - NUSSBAUM - J. NELKIN

1 THE COURT: Exhibit 74.

2 MR. NELKIN: 74.

3 Q This appears to be an email exchange between Mr. Papa,
4 yourself and Mr. Rogosnitzky?

5 A Let me find it.

6 Q It's Exhibit 74.

7 A Okay.

8 Q I'd like to refer you to the bottom of the first page.

9 A Okay.

10 Q It appears to me that Mr. Papa got an error message.
11 There is a bigger picture of it on the second page.

12 A In connection with unit?

13 Q The connection says log-in into SQL server returned the
14 following error.

15 A Okay.

16 Q First off, do you recognize that interface, is that for
17 Launch, the user name password box?

18 A Yes.

19 Q That's the Launch problem?

20 A Right. Well, it's a connection problem.

21 Q Can you tell me why it says -- what you meant by, it
22 might be the server in the Bronx?

23 A I believe he had it mirroring because that's for backup
24 purposes he had it mirroring, but the actual server was
25 located in Two Rivers I believe.

DIRECT - NUSSBAUM - J. NELKIN

1 Q I'm not a computer guy, so explain what you mean
2 mirroring?

3 A When you set up server a lot of times you can have
4 multiple mirrors taking place in case anything happens it
5 automatically put back online. So I know each individual
6 server was taking -- there are two mirrors within the server
7 with two drives, each one was mirroring the other. Plus there
8 were two servers, which both were located in Two Rivers, one
9 was called SQL server --

10 THE COURT REPORTER: I'm sorry, both were located?

11 A Now the one is in South Plainfield. One was called SQL
12 server fail, which was actually the main server, because the
13 other one that's the main was not working properly when we got
14 it.

15 Q What's the server in the Bronx?

16 A It was main. The one that's says SQL server main, that
17 was originally in the Bronx as a mirror.

18 Q Your testimony is that in March of 2014 that server was
19 in the Bronx?

20 A I believe so, yes. I didn't bring it over 'til when we
21 got the -- issue with the drives to use it as a main server,
22 so when we got it fixed that's when I brought it over.

23 Q Would we see a bill for anything related to this from
24 you?

25 A It probably just says fix server, or fix problem on the

DIRECT - NUSSBAUM - J. NELKIN

1 Launch system.

2 Q And you're saying that this is the main server?

3 A The main server which was not actually the main server,
4 it was the SQL server fail, which was actually the main
5 server.

6 Q So you're saying the fail server --

7 A The one that had the data on it.

8 Q Is actually the main server?

9 A Correct.

10 Q And the one that's called the main server is actually --

11 A When I named them we had an issue, so we used the fail
12 one as the main one.

13 Q Before you moved this one to Two Rivers, there was only
14 one server at Two Rivers?

15 A Correct. Well, there were two. The domain server, which
16 has nothing to do with the Launch system. I think it's a old
17 HP -- if I remember correctly, it was an old HP Proline
18 Generation 6, I believe. This is a Generation 8.

19 Q What servers had been in South Passaic -- in Passaic?

20 A The domain server.

21 Q The domain server.

22 Where is that server now?

23 A The last time I was in Two Rivers, I assume it was still
24 there, I have no idea.

25 Q And you're the one that installed the servers?

DIRECT - NUSSBAUM - J. NELKIN

1 A Yes.

2 Q And you're the one that connected them?

3 A Correct.

4 Q Did you have anything to do with the mirroring?

5 A Setting up, no. I'm not -- that's programming stuff.

6 Q What replaced that server in the Bronx?

7 A I think he started using some online location.

8 Q You're saying that the server that's now in the Bronx --

9 A There is no server in the Bronx. That was the main
10 server that was brought to Two Rivers.

11 Q If you look at your affidavit --

12 A The old server you're referring to? That has nothing to
13 do with the Two Rivers.

14 Q It's your testimony that there was a server in the Bronx,
15 it's been moved to Two Rivers --

16 A Correct.

17 Q -- that there's another server in the Bronx?

18 A An oil server, it had nothing to do with --

19 THE COURT REPORTER: I'm sorry, what kind of server?

20 A Oil server.

21 THE COURT REPORTER: Oil?

22 A Oil companies, yes. It had nothing to do with -- it was
23 never connected to Two Rivers.

24 Q Was it ever connected to the one that moved to Two
25 Rivers?

DIRECT - NUSSBAUM - J. NELKIN

1 A No.

2 Q What, besides mirroring the Two Rivers server, did that
3 server in the Bronx do?

4 A As far as I know nothing. Generally, you don't use
5 servers for more than one purpose.

6 Q Why was it in the Bronx if it was a Two Rivers --

7 A Because I think with Internet connections -- I think
8 Steven could speak to that -- the Internet connection at Two
9 Rivers --

10 Q Steven could speak to it?

11 A Yes, we had a lot of exchanges about getting files, which
12 we couldn't get, but files Internet fiber because they didn't
13 have a great Internet there, so he had to keep the mirror off
14 location some place. That was just where he kept it.

15 Q Who authorized you to make these server changes?

16 A Which server changes?

17 Q Moving the server --

18 A Moving it from the Bronx -- Mr. Rogosnitsky asked me.

19 Q Who owned the server?

20 A I have no idea.

21 Q Why did -- what was Mr. Rogosnitzky's reason for moving
22 the server?

23 A Moving it back to Two Rivers?

24 Q Yes.

25 A I think he decided to start using an online system.

DIRECT - NUSSBAUM - J. NELKIN

1 Probably it was faster.

2 Q When you say using an online system, what do you mean?

3 A An online server you rent from hosting companies, like
4 online hosting companies that you could rent from and they're
5 much faster from than the ones you can provide for yourself.
6 Unless you want to spend an exorbitant amount of money.

7 Q But if that's the case that you're switching online, why
8 would you need another server transfer --

9 A Mirror.

10 THE COURT REPORTER: Excuse me. You didn't finish
11 your question. Can you repeat it.

12 BY MR. NELKIN:

13 Q I said, if he was transferring the system online --

14 A Mirroring. At that time I think he still had an old
15 copy.

16 Q What function was he transferring online?

17 A I think the mirroring I believe, is what he told me. I'm
18 not, you know, an expert on this, but I just know from
19 speaking to him.

20 Q But I thought you just said the reason that he
21 transferred over the server was so that it could then be
22 connected to --

23 A No, I said to bring it to Two Rivers because it belonged
24 to Two Rivers. I never said so it could be connected.

25 THE COURT: I want you to stop interrupting one

DIRECT - NUSSBAUM - J. NELKIN

1 another.

2 BY MR. NELKIN:

3 Q What was its function when it got to Two Rivers?

4 A I think it just sat there. I plugged it into the
5 Internet, but I don't think it was ever used for anything.

6 Q So you moved it out of the Bronx where you were mirroring
7 it --

8 A Correct.

9 Q -- and you just brought it over to Two Rivers --

10 A It belonged to Two Rivers so I brought it in there.

11 Q And you did what --

12 A I plugged it into the Internet and I don't believe -- you
13 have to speak Yossi Rogosnitzky regarding if he actually used
14 it, but I don't believe so.

15 Q Did you connect it to the other server?

16 A You connect it to the Internet, you connect them to a
17 network. You don't connect servers to each other, you connect
18 them to a network.

19 Q Did it interact in any way with the other server?

20 A As far as I know, no, but that would be programming. You
21 have to speak to Yossi Rogosnitsky about that.

22 Q You may have testified about it, but when did this
23 happen?

24 A Sometime 2014, I don't remember the exact date.

25 Q Now what type of backup devices were used for the

DIRECT - NUSSBAUM - J. NELKIN

1 computers in the affidavit that you prepared?

2 A For these computers?

3 Q Yeah.

4 A No backups on the local computer, on the individual
5 computers as far as I know.

6 Q So they never used hard drives or anything like that?

7 A No.

8 Q What about flash drives?

9 A On the ones in the Bronx, Two Rivers which is the Bronx?

10 Q Let's start in the Bronx.

11 A You want to use backup, if someone brought in a flash
12 drive I wouldn't know.

13 Q Would you know if they were connected to a hard drive?

14 A If someone plugged it in, how would I know, I'm not there
15 on location.

16 Q How frequently did you go to the Bronx?

17 A Once every two weeks.

18 Q What about Two Rivers?

19 A Less, probably once a month.

20 Q When was the last time you went to Two Rivers?

21 A I think last August, maybe July not -- July 2015.

22 Q What about Brooklyn?

23 A Last time I was in Brooklyn?

24 Q How frequently do you go to Brooklyn?

25 A Also probably once every two weeks.

DIRECT - NUSSBAUM - J. NELKIN

1 Q And Newark?

2 A Newark less, maybe once every six weeks, once every two
3 months.

4 Q Have you ever used any flash drives for backup storage
5 devices on any of these computers?

6 A No, I don't recall so. On the local computers no because
7 these are old database you don't -- the individual computers
8 you don't do backup, you don't care about them.

9 Q What about on the servers?

10 A I had nothing to do with the backups on the servers.

11 Q Did you ever use a flash drive to install any type of
12 programming?

13 A No. Programming, I don't do programming.

14 Q Any type of -- did you ever transfer any type of
15 information to or from these computers using a flash drive or
16 any other media that would do that?

17 A I doubt it 'cause once it's connected to the Internet you
18 need a program usually to download it, it's a lot quicker. I
19 can't say a hundred percent.

20 THE COURT: Do you recall ever doing so?

21 THE WITNESS: No. I don't remember ever plugging a
22 flash drive into these computers.

23 BY MR. NELKIN:

24 Q Do you recall -- well, anyone else ever do so that you're
25 aware of?

DIRECT - NUSSBAUM - J. NELKIN

1 A I don't know who else would be touching the computers,
2 so...

3 THE COURT: You don't have to speculate about who
4 might or might not --

5 THE WITNESS: No, I don't recall.

6 THE COURT: Excuse me. It's important to have a
7 clear record. When he asks a question, you answer that
8 question.

9 So try it again. Let's have a clear record, please.

10 BY MR. NELKIN:

11 Q Are you aware of any instance where anyone else used any
12 type of device to either transfer information, data, to or
13 from any of these computers?

14 A No.

15 Q Same question with respect to the servers?

16 A No.

17 Q Did you check the -- you testified, I believe, that there
18 was some old user accounts on some of these servers -- some of
19 these computers; is that correct?

20 A An old Corporate computer by Sonia's office.

21 Q What about any other computer?

22 A What about them?

23 Q Did any of them have old historic user names on them?

24 A I would only know what I see on the lock screen. I don't
25 recall --

DIRECT - NUSSBAUM - J. NELKIN

1 Q So for some --

2 A -- that's the only one I saw on the lock screen.

3 Q Do you know if those user accounts were ever used after
4 the computer was moved?

5 A No, I don't know.

6 Q Did you check that when you were evaluating the computer?

7 A No, I did not log into the old accounts.

8 Q Are you familiar with the Cipher program?

9 A No, I'm not.

10 Q Are you familiar with the Jetico program?

11 A No.

12 Q Are you familiar with any type of software that can erase
13 data from a computer system?

14 A No. I mean, I know they are out there, offhand names,
15 no.

16 Q Have you ever used one of those programs?

17 A No, I don't believe so the best I can say.

18 Q Have you ever used one in connection with Two Rivers?

19 A No.

20 Q What about with any of the defendants?

21 A No.

22 Q Or any of their computer systems?

23 A No.

24 Q Do you know if anyone else has ever deleted or altered
25 data on any of these computers?

DIRECT - NUSSBAUM - J. NELKIN

1 A Do I know, no.

2 Q You have no knowledge of any instance in which that was
3 done?

4 A No.

5 Q What's the basis in your declaration for saying that the
6 computer was preserved for safekeeping?

7 A It was unplugged from anything and was put on the side.
8 It was off.

9 Q But how do you know what -- what was taking place with
10 that computer when you weren't there?

11 A I can't answer that. I only know that it was unplugged,
12 it was put in the corner of Ms. Ezell's office, it was there
13 all the time. So I can't answer, I didn't have a guard
14 watching it.

15 THE COURT: You don't have to have a guard watching,
16 I just want to make sure I understand.

17 So in your affidavit when you're talking about
18 preservation, you're talking about --

19 THE WITNESS: I took --

20 THE COURT: -- the time that you saw it --

21 THE WITNESS: I unplugged it --

22 THE COURT: -- it was unplugged.

23 THE WITNESS: -- and put it in the corner office.

24 THE COURT: Go ahead.

25

DIRECT - NUSSBAUM - J. NELKIN

1 BY MR. NELKIN:

2 Q At the time you saw it, Ms. Ezell's computer was still in
3 full use?

4 A Yes.

5 Q And what about the old Corporate computer?

6 A That one was not, it was also taken off.

7 Q Where was it located?

8 A Also next to that other one in Mr. Friedman's office.

9 Q But you didn't say that that was preserved for
10 safekeeping, I'm just curious why.

11 A I can't answer why it was worded that way.

12 THE COURT: Why can't you? You wrote this, right?

13 THE WITNESS: Well, I made a list, I wrote it
14 together with my lawyer, yeah. Why it was left out that other
15 computer I don't know.

16 Q Do you know if your lawyer communicated with anyone else
17 in preparing this affidavit?

18 A I mean they probably asked him for the affidavit but I
19 can't answer, you know, more than that.

20 Q It's just we've asked for all communications between the
21 defendants and yourself, we have not received anything from
22 your lawyer.

23 A I gave you a pile of emails. It was forwarded a whole
24 batch of stuff.

25 Q But we haven't seen anything related to this affidavit.

DIRECT - NUSSBAUM - J. NELKIN

1 A You have to speak to him, I mean.

2 Q I'd like you to turn to Exhibit 113. Do you recognize
3 any of those screen shots?

4 A This is look likes a screen shot of a computer.

5 Q Let's take the first one. It says, Park Avenue
6 Assoc/Sonia is logged on.

7 A Correct.

8 Q Do you know who that refers to and where they're logging
9 on from?

10 A That's when Sonia was in the Bronx, it looks like she was
11 working through LogMeIn.

12 Q What about the next one?

13 A The same thing.

14 Q Can you tell me anything about the bottom line, the
15 OOL-4B63C143-static?

16 A It's just an Optimum online, I can't say. I don't know
17 offhand what that is.

18 Q Do you know who that is?

19 A It's IP6, I don't know IP6. IPs offhand, no.

20 Q What about the next screen?

21 A This looks like when Sonia remotely logs in to work on 26
22 Flavors, that's what it looks like.

23 Q Let's just take the icons. Tell me what's Launch 26
24 Flavors logging into?

25 A Launch 26 Flavors?

DIRECT - NUSSBAUM - J. NELKIN

1 Q That's the Launch program of 26 Flavors?

2 A Correct.

3 Q What's Launch Office Coffee New log into?

4 A Also, I guess the database that's called Office Coffee
5 New.

6 Q For which company?

7 A I guess Office Coffee.

8 Q What about Launch Office Coffee Old?

9 A Probably -- probably the same, but he probably changed
10 the database, so he made a new icon. I mean you have to speak
11 to Yossi regarding the data because this refers to the
12 database behind the port, I can't --

13 Q And Launch Perfect Samples?

14 A Same thing.

15 Q And TCMS Shortcut?

16 A These are for a time clock program.

17 THE COURT: Time clock?

18 THE WITNESS: Yes.

19 Q And it's your testimony that this is Sonia logging in?

20 A The first pages?

21 Q Yes.

22 A The first ones, yeah. This one I have no idea. It
23 doesn't say anything on it.

24 Q What computer would she be logging in from?

25 A She was logged onto her computer from the Bronx I guess.

DIRECT - NUSSBAUM - J. NELKIN

1 It was old Corporate, the one I set up for LogMeIn.

2 Q Now I don't see a Two Rivers icon on this one.

3 A On which one? That's not -- she's wasn't logged in to a
4 Two Rivers computer. If she logged in -- if she was in the
5 Bronx and you log-in to a computer in Two Rivers, but then you
6 remotely desktop, you're not working in any of the computers
7 in Two Rivers, you're working somewhere else. And that's the
8 screen you're going to see.

9 Q You're saying this screen doesn't match any screen at Two
10 Rivers?

11 A It will not. That's the remote desktop log-in somewhere
12 else. Do you understand? When you do remote desktop, you
13 just have a screen in front of you. The computer you're
14 working on is wherever it is, wherever Yossi had the server
15 for the Office Coffee.

16 Q Could this have been logged in from a computer at Two
17 Rivers?

18 A I don't think so because I don't think I opened up remote
19 desktop the firewall for that. I don't think so. I don't
20 remember but I don't think so.

21 Q What if it's a screen shot that was taken in Two Rivers?

22 A Okay, but she was logged in to -- you could remote
23 desktop out to another computer, you can't remote desktop in.
24 If she was remote -- she logged in, she did LogMeIn on her
25 computer in Two Rivers and remote desktop out to some other

DIRECT - NUSSBAUM - J. NELKIN

1 computer, you'll see that screen shot of that computer that's
2 outside Two Rivers.

3 Q When you say a computer, so this is like a physical
4 computer somewhere?

5 A No, this is -- it's a server, it's remote desktop. It
6 creates -- it's a server, but it creates user log-ons, it
7 looks to the user --

8 THE COURT REPORTER: I'm sorry, you need to slow
9 down and speak up.

10 THE WITNESS: You logged in to the remote desktop it
11 creates a virtual environment that looks like to a user a
12 regular computer, but it's not. It's on the server, some
13 remote desktop server that's sitting somewhere and that when
14 you create a user like what we did now for Launch and that's
15 the computer you log-in to, that's where you just need to see
16 a desktop screen, it's not here, it's wherever it is.

17 Q This has got recycle bin, it's got network --

18 A Right. It creates -- the user looks like a regular
19 desktop screen.

20 THE COURT: Is this a screen shot that you might see
21 if you're at Two Rivers and remotely logging into a different
22 computer?

23 THE WITNESS: Correct, you could do it right here.
24 You could see a screen shot through remote LogMeIn.

25 THE COURT: It's not a screen shot because you can't

DIRECT - NUSSBAUM - J. NELKIN

1 remotely log into Two Rivers?

2 THE WITNESS: Correct.

3 THE COURT: Okay. Thank you.

4 BY MR. NELKIN:

5 Q Can you turn to Exhibit 44. Do you recognize that
6 opening page?

7 A It looks like the Launch system.

8 Q Can you tell me what user name refers to on that?

9 A The user name that you log-in to Launch.

10 MR. FINKEL: I'm sorry, I didn't hear that.

11 A The user name that you log-in to the Launch system.
12 Usually you use the first name, but the user system knew it
13 was logged in as Sonia, the name was Sonia Rivera.

14 Q What does it refer to when it says "computer"?

15 A That's probably Yossi Rogosnitsky's server.

16 Q What about the next page where it says "workstation
17 name"?

18 A Also.

19 Q Now turn to Exhibit 45.

20 A The page?

21 Q Do you know what computer that refers to?

22 A That was her local computer. This is probably when the
23 software database was on site.

24 Q Now it shows on one hand the admin logging in.

25 A Yossi probably -- I assume it was probably a check and he

DIRECT - NUSSBAUM - J. NELKIN

1 had -- she had him log-in to fix something.

2 Q But it shows that it is coming from workstation office
3 HP?

4 A He logged in to her computer and he opened the program on
5 her computer as an app.

6 Q If you could turn to Exhibit 35. Can you tell me what
7 role name refers to?

8 A It has to do with the different permissions. Like every
9 accounting program, it has permissions that people use.

10 Q Who determines who got which role name?

11 A Well, originally I set some of them up. They really have
12 to do with whether you create transactions or not. If you
13 actually create transactions that's a bookkeeper function or
14 Yossi he did the payroll, so he did the transactions and he
15 had to be the executive director. Executive director doesn't
16 necessarily mean a director, it has the ability to create
17 transactions.

18 Q Sylvia Ezell was the executive director?

19 A That's correct. When the program was first set up I
20 didn't know who was working so I made just a bunch of names.
21 When we actually put the Launch icon on the computer, it
22 doesn't give them access and you have an image on the computer
23 you can verify that she had no access.

24 Q But if you look under the last column it says she's
25 active.

DIRECT - NUSSBAUM - J. NELKIN

1 A Active just means it's not disabled, that she could
2 log-in. If I put the Launch on her computer, you could
3 log-in. That's what active means. You disable a user or make
4 a user active. It doesn't mean they can log-in. That's
5 standard in every QuickBooks, in every accounting program.

6 Q Did you consult with anyone as to who got which role
7 names?

8 A Not the ones I initially set up. The ones later, yeah, I
9 was told by Yossi, what he got them from.

10 Q You never consulted with Mr. Friedman about it?

11 A No, I don't think he would even know what these things
12 mean.

13 Q And if Mr. Schreiber had told you to -- well I'll
14 withdraw the question. Did you ever adjust anyone's role?

15 A I did sometimes like, I believe I once adjusted Sandra,
16 she needed access, she used to do the time clock. I needed to
17 adjust her give her more roles.

18 Q And who had the power -- who had the ability to adjust
19 this?

20 A Anybody who -- if you could log-in as admin you could
21 adjust.

22 THE COURT: Log in as?

23 THE WITNESS: Admin.

24 THE COURT: Who would do that?

25 Q And who --

DIRECT - NUSSBAUM - J. NELKIN

1 A Yossi Rogosnitsky, and then he gave me the admin
2 password.

3 Q What was that admin password?

4 A Back then, I don't remember.

5 Q Can you tell me which levels, like what the descending
6 order of authority for the levels is?

7 A I only know -- I don't know offhand because Yossi did the
8 forms of the program. I know the executive director allows
9 you to make -- actually make transactions. Sales manager --
10 the other ones basically allow you to view everything except
11 for cable viewer. That only let's you look at the time sheet.

12 Q Who set up the icons for Launch?

13 A I installed them on the computers.

14 Q Whose computer had those icons installed on?

15 A Steven, Mayer, Vince, Sandra, Nicole, Mr. Friedman. I
16 don't remember all of them offhand but...

17 Q Did anyone -- what about Ms. Rivera?

18 A When she was there, yes.

19 Q Did you ever remove any icons from anyone's computer?

20 A No, but the program automatically updates, it would
21 update the icon. If there was a problem sometimes the icon
22 would lose it's link, so sometimes it would have to be put
23 back on.

24 Q Could someone erase an icon?

25 A It's just an icon, you can delete it.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Did you ever --

2 A Icon is not the information, it's just the ability to
3 connect to the program.

4 Q Do you know if Ms. Rivera's computer had the icon on it?

5 A When she was in Two Rivers she had it on there.

6 Q What about when she moved to the Bronx and continued to
7 work for them?

8 A Yeah, but it wouldn't have worked because I believe it
9 had to connect into the server, she had going through IP.

10 Just like to have an icon is not enough, if you look the INI
11 file, which controls the IP, that controls where you can
12 connect. Just having icon is not enough to connect.

13 Q What about when she moved her computer?

14 A From the Bronx to -- from where to where?

15 Q From New Jersey to the Bronx?

16 A Yeah, it wouldn't have been able to connect them as far
17 as I understand the way the firewall was set up.

18 Q And even if she was logging in to the cloud?

19 A Even she was -- yeah, because there's two ways to log
20 into the cloud.

21 THE COURT: Stay close to the microphone.

22 A There's two ways to log in to the cloud. She could log
23 in through the icon or you can log-in through the desktop at
24 that time probably -- I think it was still located on site,
25 the database, so you couldn't -- it wasn't in the cloud at

DIRECT - NUSSBAUM - J. NELKIN

1 that time when she moved to -- what's it called -- to the
2 Bronx, I don't remember where she had it at that time, but I
3 believe it was still on site.

4 Q What cloud storage did any of these companies utilize?

5 A What do you mean by cloud storage, backups?

6 Q Yes.

7 A The actual hosting or the database?

8 Q Did they use any type of offsite storage?

9 A Well I had a backup set up, Vince asked me once 'cause he
10 had to do some kind of quality checks so I had a backup set up
11 with iDrive, I believe Yossi also used Dropbox, he took care
12 of that, I didn't deal with it.

13 Q What's the status of that iDrive?

14 A You got his email Brooklyn Beans email, you guys have
15 access to it.

16 Q I'm not asking if we have access to it, I'm saying what's
17 the status of it.

18 A I assume it's still there. I haven't touched it, I have
19 nothing to do with it.

20 Q What's the password for it?

21 A I no idea. He would have to reset it from the beans
22 email.

23 Q Did you have a password for it?

24 A At the time I set it up but I don't remember.

25 Q What was being stored to it?

DIRECT - NUSSBAUM - J. NELKIN

1 A I think that was only backing up QuickBooks and the MISys
2 System.

3 Q What's the MISys System?

4 A MISys System is an inventory that connects to QuickBooks.

5 Q Do you know where Launch was backed up to?

6 A I believe Yossi used Dropbox, but you'd have to speak to
7 him about that.

8 Q Did you ever access Dropbox?

9 A Not the one that he had associated with it the accounts,
10 I have my own Dropbox account.

11 Q Do you have anything stored that relates to any of the
12 parties here?

13 A In my Dropbox account, no.

14 Q What do you store on that?

15 A Photos, some files, mostly photos and some files.

16 Q Did you have any passwords for Dropbox that Yossi gave
17 you?

18 A No. I don't think he gave -- no, he never gave me a
19 password to his Dropbox.

20 Q Did they -- when do you believe that Launch went to a
21 cloud-based system?

22 A I think when I wasn't on site anymore so then he took it
23 off his servers.

24 Q You said you weren't on site anymore, what do you mean?

25 A When I got fired, I think that was back in October, I

DIRECT - NUSSBAUM - J. NELKIN

1 think then he took it off the serves because he couldn't deal
2 with it obviously he doesn't have someone to go on site.

3 Q Who fired you?

4 A Steven.

5 Q How did he fire you?

6 A By text message I think it was.

7 Q Do you remember the date?

8 A Early October, I don't remember offhand.

9 (Continued on the next page.)

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DIRECT - NUSSBAUM - J. NELKIN

1 BY MR. NELKIN:

2 Q How were the computers -- did they have remote printing,
3 correct?

4 A What do you mean by remote printing?

5 Q Can Sonia tell her computer to print a check somewhere
6 where she wasn't located?

7 A Only when she was in the Bronx, she was able to print the
8 check in the Two Rivers, yes.

9 Q What about at Newark?

10 A No.

11 Q What about when she was in Two Rivers, could she print a
12 check in the Bronx?

13 A I don't believe so, no. We don't -- if you have a
14 firewall, you can easily check that.

15 Q When you say you can check the firewall, how would we
16 check the firewall?

17 A By logging into it.

18 Q And what are the passwords for that?

19 A I gave them the domain password. They have a domain
20 password with everything.

21 Q Did -- you talked about material on any -- any unique
22 material on computers that were logging in remotely?

23 A Correct.

24 Q Would they store any type of data from remote sessions?

25 A Just -- just a log that it was a remote session.

DIRECT - NUSSBAUM - J. NELKIN

1 Q And what log would we see?

2 A I guess -- I assume LogMeIn keeps a log. I never
3 actually looked at it, but I assume it does.

4 Q Were there any other remote programs like TeamViewer that
5 were used?

6 A Yeah, LogMeIn sometimes used to fail. I used TeamViewer.

7 Q Any other programs?

8 A No, that I recall.

9 Q Did you have passwords for TeamViewer?

10 A TeamViewer is just a free account, a personal account.
11 There's no...

12 Q What computers did you use to access the Two Rivers'
13 systems?

14 A Usually my personal computer.

15 Q Do you know what the domain -- the address for that is?

16 A IP address offhand? Fifty -- of mine? Of my IP?

17 Q Yes.

18 A No.

19 Q Do you know the IP addresses of any of the computers that
20 you covered in your affidavit?

21 A Some of them, the overall IP address, or the one IP
22 address? I mean, IP that meets the internet, it's not the
23 same.

24 Q Well, first off, do you know the one --

25 A Offhand, some of them -- I mean, I don't know.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Do you have them written down somewhere?

2 A No, I mean you can just go to the computer and type my IP
3 and see what the IP is.

4 Q But you said you knew them --

5 A The one for Two Rivers.

6 Q And what is that?

7 A The one I don't remember fully. I remember 50.5. I
8 don't remember the full IP.

9 Q But someone can go to each of the computers --

10 A I go to any computer and type in the Google bar my IP, it
11 will give you the IP.

12 Q Did anyone at Two Rivers have icons for the 26 Flavors
13 system?

14 A Not that I recall.

15 Q Did anyone have the ability from Two Rivers to access
16 26 --

17 A Well, 26 Flavors were multiple login. Any Windows
18 computer has remote desktop on it, so yeah, you could always
19 access it. It's not something that anybody has to set up.

20 THE COURT: I ask you to just pause for one second.
21 I apologize, folks.

22 (Pause.)

23 THE COURT: Please continue.

24 BY MR. NELKIN:

25 Q Did you ever visit Miss Rivera's office at Two Rivers?

DIRECT - NUSSBAUM - J. NELKIN

1 A I was on location, yes.

2 Q Do you remember how it was set up?

3 A The way the desk was set up?

4 Q Did she have the office to herself? Were there other
5 people in the office?

6 A She had Jordan Napolitano sat next to her at the office.

7 Q And do you remember how the desks were arranged?

8 A I think they were set up in an L, but I don't remember.

9 Q And who was in -- and was one of them closer to the door?

10 A I think Sonia faced the door. Napolitano sat sideways to
11 the door, but...

12 Q So that Napolitano's desk was running -- the long end was
13 running into the door, and Sonia's was running perpendicular
14 to that?

15 A I think so. I mean, it's been a while.

16 Q And how many computers were in that office?

17 A Two.

18 Q Thank you.

19 And do you remember what the computers were?
20 Models?

21 A No. I mean Sonia's computer, that was the one we brought
22 in the Bronx. I set it up, but Jordan's computer, I don't
23 remember.

24 Q And did you ever assist Jordan with that computer?

25 A Yeah. Basically the same; network, printing, whatever.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Okay. And do you remember what Jordan's level of access
2 was?

3 A I believe she had the same access as Sonia.

4 Q Okay. And do you know where that computer is today?

5 A I assume it is still there.

6 Q Do you know what the user name was for Jordan?

7 A I assume it was Jordan.

8 Q Who set up user names on these commuter?

9 A I did.

10 Q You did?

11 A You don't set them up on the computer. You set it up on
12 the server, on the domain server. Once you connect the
13 computer to the domain server, the person tries to log in, it
14 generates the user on the local computer.

15 Q If we were trying to figure out what user names there
16 were, where would we look?

17 A On the domain server.

18 Q Domain server?

19 And that would record the name of the person's --
20 that they used to log into to their computer, or it would
21 record some other information?

22 A It just records the name of the user's login. The domain
23 server is basically a security on the domain that controls
24 access to the computer devices within the domain.

25 Q And if we were looking for the names of the computers,

DIRECT - NUSSBAUM - J. NELKIN

1 where would we find that?

2 A I don't know if it keeps a record of that, because once a
3 computer gets joined to the domain, it really just manages the
4 users.

5 Q Is there a domain server in the Bronx?

6 A There is one for the oil companies, yes.

7 Q And what about for all other computers?

8 A The trunking company does not have a domain. Sonia's
9 computer is not part of the domain.

10 Just the oil companies are just part of the domain.

11 Q What about Sonia's?

12 A Oil companies are part of the domain. The other ones are
13 not.

14 Q And so how did they function if they weren't part of the
15 network?

16 A You can still be part of the network. It's just not part
17 of the domain. They have nothing to do with each other.

18 Q Why do you need a domain server?

19 A The domain just makes it easier for admin to control the
20 computers. You don't need it. The small office like
21 Brooklyn, you don't need -- you have five, six computers, you
22 don't need a domain. You don't need a dough anywhere, it just
23 makes it easier for an admin to control the computers.

24 Q So how many computers in the Bronx are hooked into the
25 domain and how many are not?

DIRECT - NUSSBAUM - J. NELKIN

1 A The oil computers; Mr. Friedman's; three in the oil room;
2 Sonia's oil computer; Larry's oil computer; I think Jack's, if
3 I remember.

4 Q How many are not hooked into the domain?

5 A The ones I listed. I mean, off the top of my memory,
6 Sonia's is not. Sonia, the ones that she used with the coffee
7 are not attached to the overall domain. The trucking one that
8 I looked at is not attached to the domain.

9 Q What about the ones in Mr. Friedman's office?

10 A The only one that attached to the domain there is the oil
11 computer. You can't attach -- you just can't attach anything
12 to the domain. You designate it for something then you attach
13 to a domain.

14 Q By my count it's roughly about the same numbers that are
15 attached to the domain are not attached to the domain --

16 A Okay.

17 Q -- in the Bronx; is that correct, roughly?

18 A Yes.

19 Q So why does it make sense to attach a certain number of
20 computers, but not attach the same --

21 A Because the ones that are on the domain, the oil one, you
22 connect to the database, which was actually located on the
23 domain server. So the data controls it, because it's attached
24 to the domain. The ones that are just being used
25 individually, there's no reason to connect them to the domain.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Now, if Miss Rivera and Miss Ezell are serving as
2 bookkeepers, wouldn't they need to be attached to that -- the
3 databases?

4 A No. The bookkeeping program, the program they use has to
5 do with taking orders, and it has nothing to do with the
6 actual -- you don't have to use it for the actual bookkeeping,
7 so no.

8 Q What about the Brooklyn office, is there a domain server
9 there?

10 A There is none.

11 Q And there was one in Two Rivers?

12 A Yes.

13 Q And were all the computers at Two Rivers hooked into that
14 domain?

15 A Mr. Friedman's was not. Downstairs in the lab,
16 originally it was not, there was no network. I think when
17 they brought in the network, I added it to the domain.

18 That's -- I believe I attached them all to the
19 domain.

20 Q And what's the mechanism by which a computer is attached
21 to the domain?

22 A After you create the domain, you go to start, computer
23 management. You click join this computer to a domain. You
24 put in a domain password and user name, and the computer finds
25 the domain, so it has to find the domain server, and if it

DIRECT - NUSSBAUM - J. NELKIN

1 finds it, it will join it. It does whatever it does in the
2 background.

3 Q What about the office coffee in Newark, does that --

4 A There's no domain there.

5 Q There's no domain.

6 How many computers are in that office?

7 A We walk in, there's two computers. One, I believe,
8 belongs to FedEx for shipping. For shipping, FedEx brought
9 this.

10 Next office has three computers. I think there's a
11 computer in the back.

12 Q Does Mr. Friedman have an office in Newark?

13 A No.

14 Q Do you know if he works in Newark ever?

15 A Not as far as I know. I mean, does he ever go there?
16 Probably went there, but does he work? No.

17 Q Have you ever seen Mr. Friedman with a laptop?

18 A Years ago he had a laptop. I don't -- I haven't seen him
19 recently with a laptop, no.

20 Q Were you aware of any problems that had he had with a
21 laptop, computer problems?

22 A I mean, years ago. He would call me sometimes for
23 printing, but that's a long time ago.

24 Q Were you aware of any power problems he had with the
25 laptop?

DIRECT - NUSSBAUM - J. NELKIN

1 A No.

2 Q Any battery problem he had with the laptop?

3 A Could be he had an issue with the battery, just throw it
4 out because it was an old one, I don't know.

5 Q He might have asked you whether you should throw out the
6 computer because --

7 A Old Dell computer, yes. It was quite an old laptop that
8 he has.

9 Q And what did you tell him?

10 A I told him that it's hit and miss when you buy a new
11 battery. A lot of the new batteries are pretty bad. The ones
12 that don't have a computer, they just last 20 minutes and they
13 just shut down.

14 Q Can a computer work without a battery?

15 A It depends on the model. Some do, some don't.

16 Q Do you know if Mr. Friedman's did or didn't?

17 A I do not.

18 Q Okay. Do you know what he did with the computer in the
19 end?

20 A I have no idea.

21 Q Do you know if he archived any material?

22 A I have no idea.

23 Q Do you know if Mr. Friedman has ever archived any
24 material?

25 A Not that -- not that I know.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Did you ever assist him with computers at his house?

2 A He's called me sometimes when he can't print something.
3 Usually it has to do with selecting the wrong printer, but
4 that's pretty much what I helped him with.

5 Q Do you know if there is any information saved on
6 Mr. Friedman's computers?

7 A I can't answer that. I mean, when he's called me, it's
8 mostly about emails, print emails. But that's about all I can
9 answer.

10 Q Do you know how he accesses his email?

11 A He logs into Yahoo mail.

12 Q Just offhand, isn't that a cumbersome process?

13 A I thought so. I tried to convince him many times, but he
14 told me many times this is how I learned how to do it.

15 Q And what about Miss Ezell?

16 A She usually logs into AOL.

17 Q So each time they have to type in a user name and the
18 password?

19 A Right, yes.

20 Q Whereas, if you have it like you did with Thunderbird,
21 it's automatically there --

22 A Correct.

23 Q -- when you click on an icon.

24 A I tried to convince him. I don't want to learn
25 something, learn something new.

DIRECT - NUSSBAUM - J. NELKIN

1 Q What about on his phone?

2 A I never really dealt with his phones. I think his kids
3 set them up.

4 Q Do you know if he has to log into the phone?

5 A I have no idea.

6 Q Can you log into a computer using LogMeIn from a phone?

7 A Yeah, not very conveniently, but you can.

8 Q What about from an iPad?

9 A Also not very convenient, but you can, yes.

10 Q So it's not impossible?

11 A It's not impossible.

12 Q Does iPad provide technology -- I'm sorry.

13 Does LogMeIn provide --

14 A They have an app, yes. It's not very convenient to
15 actually work on an iPad, but you can't work on it. You have
16 to look at something you can.

17 THE COURT: Did you ever install it on a mobile
18 device?

19 THE WITNESS: No, not -- he never asked me, so...

20 BY MR. NELKIN:

21 Q Did you ever see Mr. Friedman with an iPad?

22 A No, not that I recall.

23 Q What about any of the defendants?

24 A No.

25 Q Did any of the defendants ever consult you with

DIRECT - NUSSBAUM - J. NELKIN

1 phone-related problems?

2 A No. I don't recall anybody ever asking me, asking about
3 phone problems.

4 Q Did you -- I understand you consult on their computer or
5 things, or you worked on their computers. Did you also handle
6 network issues?

7 A In the Bronx?

8 Q Yes.

9 A Yes.

10 Q The Two Rivers?

11 A Yes. Two Rivers mostly. I think most of it was network
12 issues.

13 Q And besides the computers, is there something else that
14 makes up the network?

15 A The wiring, the firewall and the switch.

16 Q Where is the firewall and the switch?

17 A Located in Two Rivers?

18 Q Yes.

19 A It's located in the same room as where the servers are.

20 Q Okay. But it's a separate device?

21 A Yes.

22 Q Okay. And does that record any information?

23 A No, the switch does not. The firewall, unless you turn
24 on logging on it. I don't know if it had the capability, but
25 if you turned on logging on that account, otherwise, it does

DIRECT - NUSSBAUM - J. NELKIN

1 not.

2 Q Do you know if the logging was turned on at Two Rivers?

3 A I didn't turn it on, so...

4 Q Did you ever turn it off?

5 A No. It -- most firewalls, by default, it's not on.

6 Q But can it be turned on and off or is it once it's one,
7 it's on --

8 A You can turn it on and off.

9 Q But are you saying it has to be physically done?

10 A You have to log into the firewall, and turn it on and
11 off, yes.

12 Q How does one log into the firewall? Is it that you use
13 another computer to do that?

14 A You have to be within a local network to log into the
15 firewall, yeah.

16 Q Okay. There is not like an input device on the firewall
17 itself?

18 A No.

19 Q Did you ever purchase computer equipment for Two Rivers?

20 A I did.

21 Q Did you ever purchase any of the four computers that were
22 imaged?

23 A Those four? No.

24 Referring to Mr. Sylvia's, Sonia's, Mr. Friedman's
25 and the old corporate?

DIRECT - NUSSBAUM - J. NELKIN

1 Q Yes.

2 A No, I did not purchase them.

3 Q Did you purchase -- well, where are the computers that
4 you did purchase located?

5 A Two Rivers.

6 Q Who did you give them to?

7 A I set them up where they belong.

8 Q Who did you set them up for at the time?

9 A Eugene. There's the servers. I mean, down in the lab,
10 in the shipping office.

11 Q Finish your answer and I'll ask you --

12 A Those are the ones I remembered that I purchased. I
13 don't remember, you know.

14 Q Now, you said that the server that was in the Bronx, was
15 really a Two Rivers server.

16 A Correct.

17 Q And that you purchased it.

18 A I bought it on -- right. I bought it from New Egg.

19 Q But you installed it in the Bronx?

20 A Originally I brought it to the Bronx under Yossi
21 Rogosnitzky in Short Hills. And I might have brought it
22 originally to Two Rivers and when it wasn't working properly,
23 so that's why they had me bring it there.

24 Q Now, how did you purchase that? Did you use a credit
25 card?

DIRECT - NUSSBAUM - J. NELKIN

1 A If it was -- if I bought it online, I used a credit card.
2 I usually used Mr. Friedman's credit card. If I had to pick
3 it up in the store, I used my own credit cards, and they paid
4 me back.

5 Q What records relate to your computer purchases?

6 A I submitted all the receipts. If it was bought on
7 Mr. Friedman's credit card, so it was his personal credit
8 card, I usually sent them to Sylvia. If they were
9 purchased -- if I bought it myself, I sent it directly to
10 Sonia, the bookkeeper, for Two Rivers.

11 Q Did you retain copies?

12 A I have them -- I mean, if it was bought online, I still
13 have the emails, yes. If I bought it, purchased it by hand, I
14 usually gave him the copy. I didn't keep a copy.

15 Q And again, that's information you would like to receive.

16 A It's in the Launch system, I assume.

17 THE COURT: Don't assume. The Launch system, you
18 don't have an obligation to provide.

19 THE WITNESS: Right. I have it. That's where it is
20 now.

21 BY MR. NELKIN:

22 Q But you said you would have an email --

23 A If it was emails, then I have it. But I believe I
24 submitted them in the email stuff that I gave. I believe all
25 that accounts were given.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Turn to the Exhibit 26.

2 THE COURT: Just so you know, I think after this
3 exhibit we'll take our lunch break.

4 BY MR. NELKIN:

5 Q Do you recognize that screen?

6 A No.

7 Q Okay. You don't recognize -- do you recognize the login?

8 A The name, but it's not -- the only thing that would have
9 that name would have the domain attached to it. So just like
10 that without a domain, no.

11 Q I am not understanding your answer.

12 A The only computers that has Sonia spelled like that was
13 part of the domain, the Park Avenue Associates domain.
14 Without the domain -- and you would see it attached to it
15 probably. The other exhibit that we looked at, this one, this
16 is just someone made a user and they took a picture of the log
17 screen.

18 Q In the Bronx, there's a domain -- computer connected to
19 the domain that uses the term Sonia?

20 A Sonia. Park Avenue, that was the one she logged in from,
21 had the LogMeIn on it that we looked at before.

22 Q And of the four computers in her office, which one is
23 that?

24 A That was -- that was probably her oil computer.

25 Q Her oil computer, okay.

DIRECT - NUSSBAUM - J. NELKIN

1 All right. And any idea why the name was spelled
2 differently?

3 A Originally in -- over here on this one?

4 Q No, in the one in the Bronx.

5 A Because when I set it up, I didn't know how to spell her
6 name.

7 Q Okay. All right. And did anyone else set up user names
8 at Two Rivers?

9 A No.

10 Q So until you were fired, you were the one that would set
11 up --

12 A Correct, and that could have been part of the domain, and
13 this is not part of the domain. It would say Two Rivers/Sonia
14 and Two Rivers was spelled correctly. By then I knew how to
15 spell the name.

16 MR. NELKIN: Okay. Thank you.

17 THE COURT: We'll take a break.

18 Folks, I'm afraid that there is something that is
19 going to keep me occupied until 2:00, so it is a longer break
20 than I would like, but we will reconvene at 2:00.

21 (Continued on next page.)
22
23
24
25

DIRECT - NUSSBAUM - J. NELKIN

1 A F T E R N O O N S E S S I O N

2 (Time noted: 2:00 p.m.)

3 THE COURT: Come on back up.

4 Go ahead.

5 DIRECT EXAMINATION(Continued)

6 BY MR. NELKIN:

7 Q Mr. Nussbaum, were you here on December 14th, 2015?

8 A Here? No.

9 Q You weren't in court?

10 A I don't believe so.

11 Q Have you ever been in this court in connection with this
12 case before --

13 A I think it was in February that I came. I don't remember
14 the date. I think it was February.

15 Q And at that time did you have anyone representing you?

16 A Mr. Keith Goldfarb.

17 Q Can I ask why you had a lawyer at that hearing?

18 A Just brought him along in case they asked me questions.
19 He said he might call me then as a witness.

20 Q Were you paying him for that?

21 A No, he's a friend of mine.

22 Q I'd like to be clear. What date did you first start
23 working for Mr. Friedman and any of the defendants?

24 A Five, six years ago. I don't remember the date.

25 Q And right now, you said it's part-time work?

DIRECT - NUSSBAUM - J. NELKIN

1 A It was always part-time work, yeah.

2 Q What do you with the rest of your time?

3 A Learn.

4 THE COURT: What?

5 Q Do you have any other --

6 A I learn from Talmud.

7 Q Do you have any other job besides learning Talmud?

8 A I have a few other clients, but it's a couple of hours a
9 month.

10 Q Okay. Are those paying clients?

11 A Yeah.

12 Q How much of your revenue do you derive from Mr. Friedman
13 or the defendants?

14 A It's a part-time job, I can't --

15 Q No, of your income.

16 A Well, I don't really have a full income. I do it by the
17 clients.

18 THE COURT: I think what he's asking is, out of the
19 money you make in the year, how much of it comes from the
20 defendants?

21 THE WITNESS: I think maybe half.

22 Q Half. And how much did you earn from the defendants?

23 A Over the three years?

24 Q Each year.

25 A I don't know offhand. Not -- it's a few thousand

DIRECT - NUSSBAUM - J. NELKIN

1 dollars, probably.

2 Q A few thousand dollars a year?

3 A Maybe 5, \$6,000 over a year.

4 Q Can you turn to Exhibit 120 again. I'd just like you to
5 look at the amounts of the checks and dates of the checks.

6 A Okay.

7 Q So I have -- the first check is for 3600, 2014?

8 A That's for a few months.

9 Q Then March is another, that's roughly 5,000?

10 A Okay.

11 Q Then you've got June is 600.

12 A That was just reimbursement for a computer.

13 Q The next one is 10,000?

14 A That was -- most of them, that was part of -- that was
15 reimbursement, I believe. I don't remember.

16 Q Now, you testified that you tended to buy computers and
17 stuff with --

18 A Again, I testified if I had to pick it up myself, then I
19 paid for it myself. If I ordered it online, then I used his
20 credit card.

21 Q How would you pay for it if it was in that type of
22 amount?

23 A The computer wasn't \$10,000.

24 Q You just said the bulk of it was --

25 A It was --

DIRECT - NUSSBAUM - J. NELKIN

1 Q -- reimbursement --

2 A -- more than one computer. But it was more than one
3 computer, it wasn't at one time.

4 Q I'm just asking you, when you made those purchases, how
5 did you pay for them?

6 A It depends. Sometimes I put on my credit card; sometimes
7 I paid for it cash.

8 Q And when you paid for cash, did you get receipts?

9 A I probably did, yeah.

10 Q And what about the next one, October?

11 A What?

12 Q October you have another?

13 A Okay. That was -- that one was a bill for work.

14 Q It's what?

15 A That's one bill from work. I just can tell if it has a
16 clean ending, that's not going to be for reimbursement.

17 Q Would we be able to look at that check number 12140 to
18 determine how much of that was reimbursement and how much of
19 that was actually --

20 A Probably it said on the bill but I don't remember --

21 THE COURT REPORTER: You didn't finish your
22 question.

23 Q How much of that was reimbursement and how much of that
24 was salary or compensation?

25 A It probably said on the bill.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Let's turn to page 80 -- Exhibit 85.

2 Do you recognize that first document?

3 A I do.

4 Q What is it?

5 A It's a bill.

6 Q What was it prepared on?

7 A My computer.

8 Q So you prepared the bill on your computer, would you save
9 that?

10 A Normally, yes.

11 Q And how would you transmit that bill?

12 A Sometimes I'd print it and deliver it by hand to Sonia,
13 sometimes I emailed it.

14 Q If you -- now, if you had reimbursed -- well, if you had
15 charged some sort of amount that you sought reimbursement for,
16 or paid in cash for some sort of amount that you sought
17 reimbursement for, would that be included on the invoice?

18 A That was on a separate invoice.

19 Q And would those invoices have also been prepared on your
20 computer?

21 A I didn't prepare them. If I had the copy of the receipt,
22 I just gave it over.

23 Q So you wouldn't have made a --

24 A The store would have printed it out.

25 Q But what I'm saying is, what would Two Rivers have --

DIRECT - NUSSBAUM - J. NELKIN

1 A I gave them the actual receipt, or I printed it onto a
2 bill, yes.

3 Q And when the amount was in 10,000-dollar range, would you
4 think that it was receipts or would you think it was a bill?

5 A I would have to see it. I mean, I know I could tell just
6 from the ending that part of it is reimbursement, because it
7 doesn't have a clean ending. So that I know.

8 But how much, I don't remember.

9 Q While we're on page 85 -- well, before we get there.

10 Did 26 Flavors have a server?

11 A I mean, Yossi took care of that, you would have to speak
12 to him.

13 Q I'm asking you if 26 Flavors has a server.

14 A Does it own a server?

15 Q Yes.

16 A Not that I know about. I mean, Yossi may own the server
17 that he runs the 26 Flavors on.

18 Q I'd like you to turn to Exhibit 79.

19 If you turn to the second page, I believe these are
20 allocations from Emil's credit card. If you look at the
21 bottom one that says "for Office Coffee," in the first entry.

22 A Okay.

23 Q What's it say?

24 A Server and computer.

25 Q And what's the arrow pointing to, the text?

DIRECT - NUSSBAUM - J. NELKIN

1 A Paid from Office Coffee.

2 Q Do you have any recollection of Office Coffee buying a
3 server?

4 A He might have bought it, but now they run everything
5 online, so it's not being used. So that I can tell you right
6 now.

7 Q Did you install the server?

8 A I might have delivered it. Installing a server, when I
9 install a server it means I plug in the power, plug in the
10 network cable. That's what it involves.

11 Q Let me ask you, who at these companies has computer
12 expertise to set up a server?

13 A Again, it depends what the server is doing. If it's
14 doing something, if it's running Launch, Yossi took care of
15 that. I don't have that expertise.

16 If it involved, like the domain control, I set that
17 up. If it involved just plugging in the Internet, then I did
18 that. More than that, I don't do.

19 Q Do you remember doing anything with regard to this server
20 for Office Coffee?

21 A Not offhand, no.

22 Q Do you remember plugging one in?

23 A It could be I did in Newark. But they had Internet
24 problems until we got a connection from a neighbor. They
25 couldn't run anything on their servers. It pretty much was

DIRECT - NUSSBAUM - J. NELKIN

1 run online over there.

2 Q When did they change to online?

3 A Almost since the beginning that I started going there. A
4 short time afterwards, because the Internet was really bad --

5 Q When did you start going there?

6 A -- there is no Internet service within the facility. We
7 had to buy from a neighbor across the highway.

8 Q When did you start going there for the first time?

9 A End of 2013.

10 Q But this server is being bought in June of 2014?

11 A It could be when I started going there. I don't
12 remember. I could look it up. We can check that, but I don't
13 remember offhand.

14 Q What would have to be done on a server for Yossi to be
15 able to do something to it?

16 A Just put it on the Internet.

17 Q Wouldn't you have to give him some information about it?

18 A Just based on the IP address.

19 THE COURT: Excuse me. Counsel, I don't need to
20 have their devices in the room. Sometimes, I'm sure they're
21 on vibrate.

22 Mr. Friedman, take that out of the room and don't
23 bring that back, please. Take that out of the room and don't
24 bring it back, please.

25 Go ahead.

DIRECT - NUSSBAUM - J. NELKIN

1 A Just basically give them the IP address to access it.

2 Q And how would you have given him the IP address?

3 A Once you plug it in, you can -- you get the IP address
4 from any computer located within the facility. If you go to
5 Google search, you type my IP it gives you the IP address.

6 Q Wouldn't you have to tell him that the server is online,
7 you have to do something to --

8 A I'd tell him it's turned on, yeah, obviously.

9 Q And would you have done that -- how would you have done
10 that?

11 A Plugging in the power cord and plugging in the network
12 cable.

13 Q I'm not saying -- how would you communicate with
14 Mr. Rogosnitzky?

15 A Mostly we communicated by phone.

16 Q Now, it's your testimony that you really didn't spend a
17 lot of time with software?

18 A Correct, except Windows basic. The software that comes
19 already installed on the computer, you know, not the stuff
20 that involves accounting or the business.

21 Q Did you have the skill set to handle that type of
22 software, any other type of software besides the basic stuff
23 you just mentioned?

24 A No, I'm not a programmer by any means.

25 Q What about stuff related to software on the server?

DIRECT - NUSSBAUM - J. NELKIN

1 A I could put a file on. That's not really related to the
2 software. You're dealing with the file, the INI file. It
3 might happen to be something to do with the accounting, but
4 it's just loading a file on.

5 Q Do you remember -- recall the circumstances between
6 October 1st and October 7th when members of Two Rivers were
7 trying to get the passwords to the server?

8 A I do.

9 Q What do you recall about that?

10 A They were bothering me for the password. The general
11 network policy is not to give out administrator passwords. It
12 violates every network policy.

13 I offered to help them. In the end, Mr. Friedman
14 said to turn over the password, so I turned it over.

15 Q But let me understand this. The partners in the company
16 telling you that they want the passwords and you're their
17 independent contractor, and you say no?

18 A Again, that's the general network policy. You only turn
19 over administration passwords to another network person.

20 Q Do you own the network?

21 A I don't.

22 Q Who owns the network?

23 A But they have access -- if you have physical access to
24 the server, you don't need a password to access it.

25 Q If they tell you we need the password for the server,

DIRECT - NUSSBAUM - J. NELKIN

1 that you're claiming they can access some other way, what's
2 the reason for not giving them the password?

3 A It's just basic -- it's just the protocol.

4 Q Okay. Is your company --

5 THE COURT: I'm trying to understand your testimony,
6 because earlier when Mr. Friedman was engaging in practices
7 that you thought were bad, you did because he did it.

8 THE WITNESS: Well, what are we referring to?

9 THE COURT: The typing of the password every time.

10 THE WITNESS: That was his personal computer.

11 THE COURT: Right.

12 THE WITNESS: Right.

13 THE COURT: But you're not pushing --

14 THE WITNESS: Because --

15 THE COURT: Excuse me.

16 You're not pushing back with him, you're pushing
17 back here.

18 THE WITNESS: Those are administrator password that
19 controls the entire network.

20 THE COURT: And your ownership in the company is
21 what?

22 THE WITNESS: Zero.

23 THE COURT: Okay. Go ahead.

24 BY MR. NELKIN:

25 Q Now, if you can turn to Exhibit 90 -- so between

DIRECT - NUSSBAUM - J. NELKIN

1 October 1st, when they asked for it -- did you receive any
2 instructions from them about the computer system?

3 A From who?

4 Q Any of the partners at Two Rivers.

5 Did they give you any instructions about what they
6 wanted you to do or not do?

7 A Mr. Friedman told me to turn over the password. Are you
8 referring to that?

9 Q I'm talking before that. Did they instruct you --

10 A No.

11 Q -- to not alter or modify their computer system?

12 A No. Not -- I think Steven told me not to alter, which I
13 didn't. I never logged on after that.

14 Q Did they tell you not to access it?

15 A I didn't.

16 Q Did they provide you with a statute that said --

17 A He did send me an email. I didn't access it.

18 Q But you still didn't turn over the password?

19 A Right.

20 Q Just to be clear, the statute they sent you was a
21 criminal statute involving misuse of companies' computers; is
22 that correct?

23 A I don't recall. Vaguely.

24 Q If you turn to Exhibit 71, see if that refreshes your
25 memory.

DIRECT - NUSSBAUM - J. NELKIN

1 Who is it actually sent from? It says from Steven,
2 but was it actually from Steven?

3 A It came from Eugene.

4 Q Who is copied on it besides yourself?

5 A Mayer, Mr. Friedman, Steven.

6 Q Who is Minspec (phonetic)?

7 A Yossi.

8 Q Did you get this email?

9 A I did.

10 Q Did you read it?

11 A I glanced at it. I mean, I don't know if I read through
12 the statutes. I'm not a lawyer, but I looked at it.

13 Q What did you do as a result? Did you discuss it with
14 anyone?

15 A The actual email, no. I don't recall actually discussing
16 the actual email.

17 Q So they told you they wanted the passwords on October 1st
18 and you refused to give it to them?

19 A Yeah.

20 Q Then on October 2nd they send you this statute and this
21 email?

22 A (No verbal response.)

23 Q Did you turn over the passwords?

24 A I believe I did.

25 Q When did you turn it over?

DIRECT - NUSSBAUM - J. NELKIN

1 A Either the next day, or I don't remember exactly, but...

2 Q Let's turn to Exhibit 123 and see if that helps you with
3 the time frame.

4 If you turn to the last page -- well, first off, do
5 you recognize this email chain?

6 A I saw it here. I wasn't copied on it.

7 Q Turn to the last part of it. The last page of it.

8 A Okay.

9 Q Is that you providing the passwords?

10 A Yes.

11 Q What's the date?

12 A October 7th.

13 Q And it says, "As you're doing at Mr. Friedman's
14 instructions"?

15 A Yes.

16 Q What did he tell you to do?

17 A Provide them the passwords.

18 Q Did you have any discussions about that?

19 A I asked him -- I asked him about it. He just said just
20 turn it over.

21 Q When did he tell you to turn it over?

22 A He was in Israel then, so when I got through to him.

23 Q Do you remember if it was like that same day?

24 A No, I don't remember. Probably it was not the same day,
25 because it was probably nighttime at the time of the email,

DIRECT - NUSSBAUM - J. NELKIN

1 the middle of the afternoon. So it's probably night already
2 in Israel.

3 Q Now, when in relation to this were you told not to work
4 at Two Rivers?

5 A What date?

6 Q Yes.

7 A I don't remember what date.

8 Q Before or after this?

9 A It was during this. I don't remember exactly the date,
10 sometime between the 2nd and the 7th.

11 Q Do you know when the -- Yossi went from having the stuff
12 on the server to the Launch system on the server and migrated
13 it off?

14 A No. Not exactly when, no.

15 Q Could it have been between October 1st and October 7?

16 A It's possible when I told him that I was fired that he
17 did it, but you'd have to speak to him.

18 Q Now, on October 2nd you were told not to, and he was
19 told, not to remove anything from the system. And if it
20 happened after that, why would that not raise a flag for you?

21 A Who said I knew that it happened? I didn't touch
22 anything after I was told not to touch it.

23 Q But if Yossi was taking -- was migrating off, you said
24 after you were fired --

25 A I didn't say that I knew that he did it. I said it's

DIRECT - NUSSBAUM - J. NELKIN

1 possible.

2 Q But the whole reason you said he would do it is because
3 he didn't want you -- you weren't going to be there anymore?

4 A Okay. I'm just giving you a reason why he would do it.
5 I'm not saying I know that he did it.

6 Q Did you have any discussions with Mr. Rogosnitzky as to
7 the fact that it was being migrated off the system, the
8 servers?

9 A With him, no.

10 Q Then how would you know how to service it from that
11 point?

12 A I can't service it after that. I haven't touched it
13 after that. I have no way of servicing it.

14 Q You didn't continue to help --

15 A Of Launch, no. Because once --

16 THE COURT: Let him ask the question, please.

17 Q You didn't continue to help Ms. Rivera?

18 A Only what was located on the local computer. Nothing to
19 do with the actual Launch system. The database is not the
20 same thing as what's located on a local computer.

21 I could help someone make the remote log-in
22 somewhere, that's not the same thing as having anything to do
23 with the database.

24 Q But if she was going to have to be remote logging into
25 somewhere, and it's been migrated, wouldn't you have to tell

DIRECT - NUSSBAUM - J. NELKIN

1 her somehow where to look?

2 A You just have to the copy program INI file that Yossi
3 would provide me, and that would send it wherever it was
4 supposed to go.

5 Q Wouldn't that tell you when you were copying that file
6 and sending it somewhere else --

7 A I said I hadn't studied it, no.

8 Q Well, what do you mean no --

9 A You don't see it from the file. If you just look at the
10 INI. You have to open it up and study it to see where it is
11 going. You can't just copy the file.

12 Q I'm not asking where it's going, I'm just asking the fact
13 that it's going somewhere else. If you're copying --

14 A I wouldn't know necessarily it's going somewhere else,
15 unless I opened up the file and studied it.

16 Q And what would the purpose of being to copy the file in
17 the first place?

18 A I'm not saying I did. You're just asking if I had to do
19 it.

20 Q Do you recall doing it?

21 A I don't remember. Actually, I don't remember doing so.

22 Q Do you know if Ms. Rivera was locked off the system for
23 several months?

24 A During that time I wasn't asked about it, but she could
25 have spoken to Yossi. He could have set it up for her.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Do you know if Ms. Rivera ever communicated with Yossi?

2 A She did. Things involving the program, she did
3 communicate directly with him.

4 Q How did she communicate with him?

5 A I assume the phone.

6 Q What's the time difference between Israel and here?

7 A Sometimes six hours, sometimes seven hours.

8 Q Let's look at Exhibit 19. I'm looking at the second
9 page. This is Mr. Rogosnitzky talking to you, saying he wants
10 you present during installation of software.

11 A I wasn't copied on this email at the time, as you can
12 see.

13 Q I'm not asking if you're copied on it or not, I'm just
14 asking why would you need to be there for the installation of
15 software?

16 A He didn't want anybody touching his database.

17 THE COURT: I'm sorry. Please, I need you to use
18 the microphone. I didn't hear.

19 A Possible, I'm just speculating, that he didn't want
20 anybody touching his database.

21 Q And so how would you prevent that, if you were present?

22 A It's just that if I had the admin, administrator
23 passwords, someone else didn't, I knew nobody else was
24 touching his database, that's all.

25 Q So did he want you to perform the tasks?

DIRECT - NUSSBAUM - J. NELKIN

1 A I guess.

2 Q And do you know if he tried to schedule with you to do
3 so?

4 A If he tried to schedule, I don't remember. It's possible
5 he called me.

6 Q Do you have any recollection of him calling you?

7 A This is going back almost a year or so, if I remember
8 exact, no, I don't remember exactly going back a year.

9 THE COURT: I don't think he's asking for exact
10 recollection. If you understand the substance of his
11 question, please give a truthful answer, please.

12 A Okay. About this particular point, did he call me to
13 schedule? I don't remember. It's possible he called me if I
14 wanted to go over there. It was on the holiday, so I probably
15 said no.

16 Q And when you say it was on holiday --

17 A It was during Talmud.

18 Q So you recall this whole event being during the holidays?

19 A Yes, this was during Talmud I remember.

20 Q Do you remember if Israel and America celebrate the same
21 holiday schedule?

22 A Approximately, there's a day difference.

23 Q Well, how long is -- I believe what holiday was this?

24 A Sukkots.

25 Q And does Sukkots extend beyond Sukkots to other holidays?

DIRECT - NUSSBAUM - J. NELKIN

1 What immediately follows Sukkots?

2 A Shemini Atzeret and Simchat Torah.

3 Q And in Israel do they celebrate -- in America, do they
4 have two separate days, one for Shemini Atzeret and one for
5 Simchat Torah?

6 A They do.

7 Q In Israel do they?

8 A They have one.

9 Q What about the beginning of the holiday? In America do
10 they have --

11 A Two days, and in Israel they have one.

12 Q So how long is the holiday here?

13 A Nine days.

14 Q And how long is the holiday in Israel?

15 A Eight days.

16 Q And do you happen to know what October 6th was in
17 America?

18 A No, not offhand.

19 Q Would it help if you saw a Jewish calendar?

20 A I'm sure.

21 MR. GRANTZ: Your Honor, this is kind of outside of
22 relevancy.

23 THE COURT: It's an inefficient way of getting at a
24 very relevant point.

25

DIRECT - NUSSBAUM - J. NELKIN

1 BY MR. NELKIN:

2 Q Would it surprise you to know that October 6 --

3 THE COURT: Can we stipulate what the holiday was?

4 MR. NELKIN: It was -- the holiday was Simchat
5 Torah, in America.

6 THE COURT: On October 6th. Any disagreement?

7 THE WITNESS: Okay, so maybe that's why I didn't
8 answer 'til the 7th.

9 Q Would it have been that holiday in Israel?

10 A But Yossi might be only at that. So he might be two
11 days. Because people from America go to Israel for the two
12 days.

13 THE COURT: I think I got the gist of this witness'
14 testimony on it. Why don't you move on.

15 MR. NELKIN: Okay.

16 Q Turning to Exhibit 76, please. Do you recognize this
17 email?

18 A Now that I look at it, yes.

19 Q What is this email?

20 A It was a back-and-forth on October 16th regarding --
21 well, some of it was on the 8th, regarding the passwords.

22 Q And were you being requested to give passwords?

23 A I was.

24 Q And were you giving them?

25 A I had already turned over the password, the

DIRECT - NUSSBAUM - J. NELKIN

1 administrative password.

2 Q Can you turn to the next page.

3 At the very top, can you tell me what you wrote on
4 October 8th?

5 A "I don't work for you. Please stop harassing me."

6 Q What did you mean by that?

7 A He kept sending me emails, bothering me about the
8 passwords. I had already turned it over to him.

9 Q I meant the, I don't work for you.

10 A I meant I don't work anymore for Two Rivers.

11 Q As opposed to you didn't -- your testimony is that you
12 stopped working for Two Rivers --

13 A I was fired. I had nothing to do with them anymore.

14 Q Do you have an iPhone?

15 A No.

16 Q Do you have an iPad?

17 A No.

18 Q Are you familiar with how iPhones and iPads work?

19 A A little bit.

20 Q If you receive a message that says sent from my iPhone,
21 can that be done without having the account for the email
22 connected to the iPhone?

23 MR. GRANTZ: Objection to form.

24 THE COURT: Overruled.

25 A Yes, it can.

DIRECT - NUSSBAUM - J. NELKIN

1 Q How?

2 A It's just a text going on the bottom of an email. Any
3 email could say anything on the bottom.

4 Q So someone would have to physically type --

5 A It's -- well, you could add to your signature, so
6 obviously the email would say that. You can't -- you assume
7 it's from an iPhone, but does it prove it? No, it does not.

8 Q If someone is using their email and logging on through
9 the Yahoo or AOL, would it say sent from my iPhone?

10 A I would assume not. But can it? Yes.

11 Q What about if they did it from their iPad, if they
12 logged in the inefficient way that you said everyone was
13 logging in?

14 A Again, can it? It's the same thing with an iPhone, yes.
15 Would I assume yes? No, I would not assume.

16 THE COURT: The way it would happen is if you view
17 that via logging in --

18 THE WITNESS: Right.

19 THE COURT: -- both using your phone --

20 THE WITNESS: I would assume it not say it --

21 THE COURT: Right. Then --

22 THE WITNESS: But it can say it.

23 THE COURT: For it to happen that way, you would
24 have to actually physically type in, sent from my iPhone.

25 THE WITNESS: Well, you could add a signature --

DIRECT - NUSSBAUM - J. NELKIN

1 THE COURT: Or add a signature --

2 THE WITNESS: Right, and then it would always be
3 there.

4 THE COURT: Okay. The signature, that would be
5 something on that account, always sends emails saying sent
6 from my iPhone.

7 THE WITNESS: Correct.

8 THE COURT: Okay.

9 BY MR. NELKIN:

10 Q And so even if they didn't send it from their iPhone, it
11 would still say sent from my iPhone?

12 A Right, I would assume that. But I don't know why
13 somebody would add that to a signature, but --

14 THE COURT: Move on.

15 Q Okay. If you can turn to Exhibit 85.

16 A Yes.

17 Q I'd like you to look at page -- I think it's the sixth
18 page. It says "Fixed router."

19 A March 9th.

20 Q Yes.

21 A Those were two separate things.

22 Q Those are two separate things?

23 A Two separate things. Same kind of issues one had to do
24 with the router. Just they both took place on that date, so
25 they're on there.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Okay. So if you could turn back to the third page, where
2 it says "Fix Sonia/designer"?

3 A Yeah, designer refers to names, the person who dealt with
4 designing. Max, I don't know his name offhand, and one was
5 Sonia, two separate things.

6 Q Just because they're -- they have a slash, doesn't mean
7 that they are the same thing?

8 A No, nothing to do with each other.

9 Q Thank you. Can you turn to Exhibit 94.

10 Do you recognize this email?

11 A Yes.

12 Q What is this email dealing with?

13 A This has to do with Vince asked me about the backup
14 routine.

15 Q And what did you tell him?

16 A The first message or the second?

17 Q Well, where did you tell him things were being backed up
18 to?

19 A "Individual PCs are now backed up. QuickBooks is backed
20 up every night. And the Launch Office Coffee is backed" --

21 THE COURT: Sir.

22 A "QuickBooks was being backed up and the Launch Coffee
23 server was being backed up to the cloud."

24 Q And he asked you what cloud service?

25 A Correct.

DIRECT - NUSSBAUM - J. NELKIN

1 Q And what did you tell him?

2 A I told him Dropbox, which I got the information from
3 Yossi.

4 Q And you had no way to access it?

5 A I had no access -- except, you know, the physical sync
6 program that sits on the server itself, but that's not
7 actually the server. I have no access to the Dropbox account.

8 Q And when it says "Office Coffee" there --

9 A That's the Launch, is the Launch system which Mr. Vince
10 Papa clearly understood.

11 Q Were they both -- was Office Coffee and Two Rivers Coffee
12 connected?

13 A No, not in any way, separate databases.

14 Q And Vince Papa had nothing to do with Office Coffee?

15 A No.

16 Q You said except the databases?

17 A No, separate databases.

18 Q Separate databases.

19 Do you know if those databases were in the same
20 location or not?

21 A No, definitely not.

22 Q Now, you testified, I believe earlier, that you would set
23 up employees with Launch system?

24 A Correct.

25 Q If you turn to Exhibit 97. Is this an example of you

DIRECT - NUSSBAUM - J. NELKIN

1 being instructed to do that?

2 A Yes.

3 Q Just tell me again what you would do to set someone up.

4 A Click on the manage user. Add a user name --

5 THE COURT: Slowly, please.

6 A Click on manage users. You add a user name. Hit okay.

7 Then when the person logs in -- you put the icon on their

8 computer. When the person logs in, we ask them to pick their

9 own password. Once they pick their own password, they have

10 access.

11 Q Did you record any of those passwords?

12 A Those are personal passwords. I didn't keep that.

13 Q And then to set up the icon, what did you have to do?

14 A I just copied it. Either it was on the network
15 somewhere, or I used a USB to copy on.

16 Q I thought you said you didn't use USBs --

17 A No, you asked me if I used USBs in the Bronx.

18 Q Well, did you ever set anyone up on the Launch system in
19 the Bronx?

20 A Not in the Bronx, no.

21 Q So where did you use USBs?

22 A In Two Rivers.

23 Q What USBs did you use?

24 A Just take a USB, copy the icon onto it, and move it onto
25 another one. I didn't pay attention to it. It's just an

DIRECT - NUSSBAUM - J. NELKIN

1 icon. There's nothing really -- it's not something -- there
2 is nothing on it, it's just an icon.

3 Q And where are those USBs today?

4 A I have no idea.

5 Q When was the last time you used them?

6 A Last time I set up a user, probably over a year ago.

7 This was probably the last user I set up.

8 Q Is it your practice to discard USBs?

9 A Well, I lose them a lot. So --

10 THE COURT: I don't think you answered the question,
11 sir.

12 A I usually don't throw them out, but I lose them.

13 Q Do you remember losing this one?

14 A I don't -- the USBs I have, I don't think it's any of the
15 ones that I have now. But it might be. I can look through
16 them.

17 Q How many do you have?

18 A I constantly lose them, and I constantly buy new ones.

19 Q I'm asking how many you have today.

20 A The USB drives that I carry around? Right now on me
21 none, but I have one that I keep a copy of Windows on; one for
22 repairing computers; one with Windows server on it. Probably
23 four or five.

24 Q Now, how -- what would you use the Windows -- don't you
25 have to buy a license for Windows?

DIRECT - NUSSBAUM - J. NELKIN

1 A I do, yeah, but -- well, the license comes with the
2 computer. You buy a computer, it comes with the license. If
3 you have to repair it, you have to reload it, you don't have
4 to buy a new license. You have to reload Windows.

5 Q But I'm guess what I'm saying is when you -- wouldn't you
6 use the disk that came with the computer --

7 A No. Log-in takes about 19 minutes to, if you use a USB,
8 to load Windows. It takes about an hour if you use a disk.

9 Q Is there any way to put an icon on the machine without a
10 USB?

11 A Copy it from another computer on the network from the
12 server.

13 Q Did you ever do that?

14 A Probably.

15 Q Now, what other icons do you use USBs for?

16 A This was -- what, this was a proprietary program.

17 Q But wouldn't there have to be another one for 26 Flavors?
18 There were bunch of icons that you identified before.

19 A That was server -- that was all Remote Desktop. We don't
20 set up Yossi, it all sat on one place, only sat on the
21 computers.

22 Q So your testimony is the only icon that was not virtual
23 was the 26 Flavors -- wait a minute, the Two Rivers one?

24 A Two Rivers, at the time it was located in, right.

25 Q Where did you get the icon from for Two Rivers initially?

DIRECT - NUSSBAUM - J. NELKIN

1 Where did you --

2 A Well, Yossi probably put it originally on the server, and
3 I copied it off that.

4 Q So then you would put a USB into the server?

5 A Back in Two Rivers, yeah, possibly.

6 Q But the server was originally in the Bronx, I thought.

7 A That was the main server. That one didn't have the
8 program. It was just mirroring. That was not the one that
9 was being used.

10 Q When did the Launch Coffee system start?

11 A They started working with it April 2013. They weren't
12 using it fully because it wasn't ready. I believe they
13 actually started printing checks and using it for account
14 payable in October 2013.

15 Q Is there any other place that you used a flash drive to
16 put an icon besides South Plainfield?

17 A I don't think I had any reason to do so, no.

18 Q So how would they have gotten icons at Passaic?

19 A On those same computers? So then I'm referring to those
20 same computers. The one in Two Rivers are the same computer
21 as Passaic. I'm just taking it from one location and moved to
22 the other place.

23 Q Yes, but the locations are different?

24 A Okay. So the computers of Two Rivers.

25 Q Besides Microsoft Windows, what else is on your flash

DIRECT - NUSSBAUM - J. NELKIN

1 drives that relates to any of the parties here?

2 A I don't think anything. I have Windows 10 on one. I
3 don't think anything.

4 Q Do you remember the brand names of the flash drives you
5 used?

6 A They were bought at Micro Center, so whatever -- they
7 said Micro Center on them. I don't know if inside it's
8 something else.

9 Q Were those things have been things you charged to Two
10 Rivers or Mr. Friedman?

11 A No. I paid the \$3 myself.

12 Q And would there be any receipts or anything for that?

13 A I probably could find the receipts from Two Rivers for
14 buying. I probably find the receipts for buying the flash
15 drives. If I paid cash, it was \$3 I probably threw out the
16 receipt.

17 Q Can you tell me which -- what the rough initial start
18 date of use was for Ms. Rivera's computers?

19 A Which computers?

20 Q The ones she used. You identified --

21 A They were there before I existed, I believe, if I
22 remember, so I can't answer that.

23 Q All of them predated?

24 A I think so.

25 Q Do you remember of her two computers, which was the newer

DIRECT - NUSSBAUM - J. NELKIN

1 one?

2 A The one that had Windows 7. One had XP, which is the old
3 version of the operating system and one had Windows 7, that
4 was the new one.

5 Q Do you remember of the two computers that had names, Time
6 and Office, which one --

7 A Time was the old one and office was the new one.

8 Q Turn to Exhibit 105, please. I'd like you to walk
9 through -- look at paragraph 8, I'd like you to walk through
10 the LogMeIn in program.

11 A Okay.

12 Q If I'm sitting at my desktop, and I want to access a
13 computer somewhere else through LogMeIn, what has to be on my
14 computer and what has to be on the other computer?

15 A The other computer had to have been set up with LogMeIn.
16 The one that's in front of you really nothing has to be done.
17 It's convenient if you download the LogMeIn client, but you
18 don't need to, you can just use a regular web browser.

19 Q But the one I'm accessing has to have LogMeIn?

20 A It has to have a host file and that's LogMeIn.

21 Q What is that host file look like or does it have a name?

22 A Just something that's installs as a service in the
23 background to log me on. It just becomes a Windows -- it gets
24 installed as a Windows service. So if you run service the MSC
25 you'll see it, otherwise you won't see it.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Would I have a -- would there be a LogMeIn user on either
2 computer?

3 A I don't know if that's how it sets up the service, I
4 can't really answer you. I just know you download the file,
5 you run it and it sets up the service on the computer and it
6 allows you in.

7 Q When I use LogMeIn, is it just like being at my computer
8 or is there some sort of -- does it work at the same speed or
9 how does it work?

10 A Well you're working at the speed of the network, whatever
11 the speed of your network is.

12 Q Does the screen get smaller or anything else?

13 A It can mess up the screen sometimes, yes. It doesn't,
14 you try not to but.

15 Q If we turn to Exhibit 120, I think you testified that
16 Mr. Friedman would give you a check which you would sign over
17 after the amount that he was lending you --

18 A Well, it was close.

19 Q So how long would it have taken him to lend you \$10,000
20 so that it was time --

21 A I believe that's from two bills, I would have to look it
22 up and it's over eight months. It's not fully \$10,000 because
23 part of it was reimbursement.

24 Q Well, look at the date on the check. It's 12140. It's
25 the fourth page.

DIRECT - NUSSBAUM - J. NELKIN

1 A Okay.

2 Q It's July 29th, 2014, isn't it?

3 A July 29th.

4 Q Check 12140.

5 A Okay.

6 Q Is that check dated July 29th?

7 A Yes.

8 Q And then if you turn the page before --

9 A Right.

10 Q -- that one is only June 25th.

11 A That's just a reimbursement for a computer, I probably
12 asked him for separate.

13 Q Let's turn the page before that --

14 A Okay.

15 Q -- that's March.

16 A Right, but that -- I believe that bill, I would have to
17 check, it was going back from before, from quite a while
18 before.

19 Q Well, we can cross index it with Exhibits 85, but I
20 submit to you that it's not eight months.

21 A Maybe six months. I mean, it could be checked. I mean,
22 we could check this out.

23 Q Do you have any outside source of income besides the
24 money you earned from -- the \$10,000 or so you earn a year?

25 A No.

DIRECT - NUSSBAUM - J. NELKIN

1 Q So then wasn't it a hardship for you to front \$10,000 for
2 eight months?

3 A I didn't have a 10,000 bill for eight months because he
4 was giving me cash over the months.

5 Q But I think you testified that it took -- that this was a
6 reimbursement.

7 A Not -- part of it was reimbursement, but he probably gave
8 me cash to pay.

9 THE COURT: He gave you cash but you still sent him
10 a bill?

11 THE WITNESS: No. I didn't send --

12 THE COURT: Use the microphone.

13 THE WITNESS: Again, I sent him a bill for Two
14 Rivers, but 'til I gave him the bill, I probably asked him for
15 cash. I asked him for cash because I hadn't given him the
16 bill for quite a while.

17 THE COURT: But he gave you cash and then he gave
18 you a check.

19 THE WITNESS: He gave me a check, I gave him back
20 the check because I owed him the money.

21 THE COURT: All right.

22 Move on, please.

23 BY MR. NELKIN:

24 Q But I guess what I'm trying to understand is, if you --
25 you claim this was for expenditures?

DIRECT - NUSSBAUM - J. NELKIN

1 A Some of it, not all of it, some of it.

2 Q How much of it?

3 A I would have to look at the bill, I don't have it in
4 front of me. I would have to look at it.

5 Q More than half?

6 A I don't remember. This is going back over a year.

7 Q Well, you testified earlier that you --

8 A I believe so, but I don't know. I'd have --

9 THE COURT: Stop interrupting him, please.

10 Q You testified earlier you only earned roughly \$5,000 from
11 the defendants a year.

12 A Approximately.

13 Q So if this check alone is \$5,000, then it would seem like
14 it would have to be at least half, if your other testimony was
15 true?

16 A Okay.

17 Q In addition, it seems like there are other checks in
18 those years that for thousands of dollars as well?

19 A What other checks?

20 THE COURT: I think we've exhausted the ability to
21 tell me something useful on this.

22 MR. NELKIN: We'll move on Your Honor.

23 Q Did he give you cash on a regular basis or just on an ad
24 hoc basis?

25 A It was ad hoc, but it was sort of regular.

DIRECT - NUSSBAUM - J. NELKIN

1 Q What would determine how much he gave you?

2 A I would ask him for cash and he would front it for me
3 until I gave him the bill.

4 Q What's the most you would ask for?

5 A A thousand dollars some.

6 Q What's the least you would ask for?

7 A A few hundred dollars some.

8 Q And how often did you see him to get that?

9 A Well a lot of times he would tell me just to go to the
10 Brooklyn office and someone would give it to me.

11 Q So they would give you the cash out of the Brooklyn
12 office?

13 A Yeah.

14 Q Did they store a lot of cash at the Brooklyn office?

15 A I would have no idea.

16 Q Does the Brooklyn office have anything to do with Two
17 Rivers?

18 A Not that I know about.

19 Q And does Mr. Friedman have an office at the Brooklyn
20 office?

21 A His own office, no.

22 Q Does he have computers that he uses there?

23 A He sometimes uses Rosie's computer to access his email.

24 Q Can you turn to Exhibit 126, the sixth page. I'm looking
25 at the one Sunday, November 9th, 2014 at 7:52 p.m.

DIRECT - NUSSBAUM - J. NELKIN

1 I'm looking at the third line of the text. I just
2 would like you to read that and tell me what --

3 A What is that?

4 Q It's the sixth page in Exhibit 126.

5 MR. FINKEL: What time is it?

6 BY MR. NELKIN:

7 Q 7:52, Sunday, November 9. I'm looking at the text where
8 it says, "I am not really working for them I work for a silent
9 partner who recently has become not so silent, I do what he
10 asks."

11 A This was from -- this had nothing to do with Two Rivers.

12 Q Well I guess my question is, who is the silent partner
13 you're talking about?

14 A This was -- this had nothing to do with Two Rivers at
15 all. This whole exchange had to do with completely outside, I
16 don't even know how he got the Brooklyn beans email.

17 Q I'm not asking you what it relates to, I'm just asking
18 you who the silent partner you're referring to is?

19 A Which company is this we're referring to?

20 THE COURT: Sir, you wrote the email, if you know
21 who you're referring to, if there is some other silent partner
22 that you can think of that you working for, let us know. If
23 you don't know, you don't know. Tell us what you know.

24 A This is referring to 26 Flavors, Mr. Friedman.

25 Q So Mr. Friedman was the silent partner?

DIRECT - NUSSBAUM - J. NELKIN

1 A Right. My understanding. I mean, I wasn't involved in
2 the actual...

3 Q What did you know about him being a silent partner in 26
4 Flavors?

5 A Just -- I just know from my interaction that he really
6 didn't have anything to do with what went on there.

7 Q But it says becoming not so silent?

8 A He was sending me to do the networking.

9 Q Do you know if he had been a silent partner in Two Rivers
10 at any point?

11 A I have no idea.

12 Q Can you turn to Exhibit 128. I'm looking about at page 5
13 they're numbered at the bottom. This is an exchange between
14 Mr. Schafhauser and Mr. Papa.

15 A Okay.

16 Q But they're talking about a conversation that Mr. Papa
17 said he had with you where you were talking about a hosting
18 agreement with the vendor that allegedly gives control to both
19 the software and the data to the vendor and Mr. Papa never had
20 seen such an agreement. And I'm asking if you remember having
21 that conversation with Mr. Papa?

22 A Vaguely.

23 Q Do you remember telling him that there was some sort of
24 hosting agreement?

25 A Repeating what Yossi told me, so...

DIRECT - NUSSBAUM - J. NELKIN

1 Q Have you ever seen the hosting agreement?

2 A No. I just repeated what Yossi told me.

3 Q So you have no basis to say whether there is a hosting
4 agreement or not, other than what Yossi told you?

5 A Right.

6 Q Did Sonia have a Brooklyn Beans account?

7 A I had nothing to do with setting up the emails. Steven
8 set them up, so...

9 Q I'm just asking if she had one. You're aware of?

10 A Not that I -- I don't believe I sent her an email to
11 Brooklyn Beans account, but...

12 THE COURT: Again, try to answer the question that's
13 asked, sir.

14 THE WITNESS: I don't believe I ever sent an email
15 to her Brooklyn Beans account.

16 THE COURT: Try to answer the question that's asked
17 sir. Do you know if she had one?

18 THE WITNESS: Not offhand.

19 Q Do you know if Sylvia had one?

20 A Not offhand. I would only know if it was used. If
21 they -- I would only know if they sent me stuff from it.
22 That's the only way I would know.

23 Q Can you turn to Exhibit 129. Do you recognize that
24 email?

25 A I do, but I never got a response on it.

DIRECT - NUSSBAUM - J. NELKIN

1 Q But were you trying to set up emails for Sonia and
2 Sylvia?

3 A I was asked, actually, I think by Steven to get them
4 emails for the company, that's what that was about.

5 Q But you don't know whether they were ever set up after?

6 A I had no answer, so if they were set up it had to have
7 been by Steven.

8 Q I'd like to go back and discuss, besides the IT work,
9 what other relationship do you have with Mr. Friedman?

10 A What? I don't have any relation.

11 Q Do you don't have any family relationships or --

12 A No.

13 Q You're not friends of his?

14 A I mean I've worked for him so I guess I call him my
15 friend, but...

16 Q You said your son --

17 A His son went to bank about 20 years ago, we went to one
18 year of high school together. But I didn't know that until I
19 started working and I met his son.

20 Q When you were at the same school as his son, did you ever
21 go over to his house?

22 A No.

23 Q Were you involved in any imaging of any devices related
24 to the defendants?

25 A No.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Any phones, anything like that?

2 A No.

3 Q Who sets up computer names?

4 A What do you mean?

5 Q What?

6 A What do you mean by computer names?

7 Q Sonia's computer had a name "Time"?

8 A That was before my time.

9 Q But I'm saying, who chooses the name of the computer?

10 A The ones that I set up? A lot of times you just leave it
11 and what happens is the user name -- what happens you'll see
12 the user name dash PC. Although, if you join to a domain they
13 usually it a give a name. I usually give it client one,
14 client two, client three.

15 Q And do you know the names of any of the computers in the
16 ones that are in your affidavit?

17 A Some, some of them, yeah.

18 Q Can you tell me what they're and which ones they are?

19 A There's Time, there is Office HP, there's --

20 THE COURT: Why don't you tell us which one is
21 which.

22 A Time is the old corporate.

23 Q If it would help, you can turn to Exhibit 110 I think
24 it's your affidavit.

25 A Oh. Some of the computers existed from before my time

DIRECT - NUSSBAUM - J. NELKIN

1 that's connected to the domain, so I didn't set up the name on
2 that computer. The new computer --

3 Q Do you know what the name is?

4 A Offhand, no.

5 Q Okay.

6 A The new computer, which was purchased several months ago,
7 probably, the name is Sonia but I don't know. The old
8 corporate computer that one is Time.

9 The computer that was removed that was taken back
10 and forth from Two Rivers, now it's called Office HP. Two
11 computers used for work they existed before my time.

12 The oil computer for Emil Friedman, that one also
13 was there but I believe it says Emil PC.

14 Q Which one says Emil PC?

15 A The oil computer possibly.

16 The computer -- I have no idea about the computer to
17 MB Fuel Transport. The other one I also have no idea what the
18 name is.

19 The old oil computer I have no idea what the name
20 is.

21 Again, the computer used by Larry, those were there
22 from before my time.

23 The two dispatch computers, I don't know what the
24 actual names of the computers are.

25 Sonia's computer, I have no idea what the actual

DIRECT - NUSSBAUM - J. NELKIN

1 name is. I think it might be -- I think it said Rosie C, but
2 I'm not sure.

3 Office used by John Ahearn, that also was a computer
4 before my time.

5 The front office, computer server, it does say EJ1,
6 EJ2, the ones in Brooklyn.

7 The computer for the security cameras, I didn't set
8 up. I didn't set it up. The camera company did.

9 The four other computers, they probably say EJ1,
10 EJ2, EJ3 but I don't remember offhand.

11 Q Now -- but you said that you used to use the name,
12 client, client one, client two --

13 A Two Rivers I set them up client one, client two, client
14 three.

15 Q Which computers do you remember setting up there?

16 A Well I probably plugged in all the computers there.

17 Q And so --

18 A Unless the ones that existed that came from the Passaic
19 those I didn't set up, Steven did.

20 Q We would expect to see a Two Rivers client one, client
21 two, client three?

22 A Right.

23 Q Do you know how many you set up, what the number --

24 A I don't know. Some of the computers came from Passaic
25 which I didn't set up, so those wouldn't have those names.

DIRECT - NUSSBAUM - J. NELKIN

1 THE COURT: Came from?

2 THE WITNESS: Passaic before they moved.

3 (Continued on the next page.)

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DIRECT - NUSSBAUM - J. NELKIN

1 DIRECT EXAMINATION (CONTINUED)

2 BY MR. NELKIN:

3 Q Can we assume that there was a user name, Emil, that that
4 was likely to be some computer that was used by Emil?

5 A No.

6 Q Why?

7 A Because for one, if I gave them access, you have to
8 create a user. So I would create a user, an Emil user, to log
9 in. So it doesn't mean that he actually ever used the
10 computer.

11 Q You're talking about a LogMeIn user?

12 A Yes. In order to log in on the computer, you have to
13 have a login on there. A login that you can put into a
14 LogMeIn.

15 Q So you would need to have an account on that computer, so
16 that he can log into the computer.

17 A If even if he's not logging into the account.

18 So, for example, if Sonia's using her computer, if
19 Emil wants into the computer, he needs to have an Emil user
20 name on it.

21 Q If there's an Emil user name on the computer, does that
22 mean that Emil would have logged into that computer?

23 A Well, he could have logged into Sonia's user.

24 Q But I don't care if he did or not, I'm just saying if we
25 find a computer and it has an Emil user name on it --

DIRECT - NUSSBAUM - J. NELKIN

1 A It's possible that I set it up so he could log in, it
2 doesn't mean that he did log in.

3 Q And why would you have set up so that he could log in?

4 A I put login on all the computers. People that I
5 interacted with, I created users so in case he had to log in.

6 Q So you set it up so that he theoretically could log in to
7 all the computers?

8 A Not all the ones, that people he interacted with.

9 Q And who would that be?

10 A Sonia -- you're talking about all the companies?

11 Q Yes.

12 A Sonia, Sylvia. That's pretty much offhand who he logged
13 in with.

14 Q What about 26 Flavors?

15 A I don't think he -- I didn't set up a LogMeIn for him.

16 Q What about the Brooklyn office?

17 A Those I set up users so he can log in if he wanted to.

18 Q On all those computers?

19 A A LogMeIn on all those computers, yes.

20 Q Okay. Thank you.

21 Now, did you ever log in to these computers
22 remotely?

23 A Yes, I did.

24 Q And what user name did you use?

25 A I used the admin.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Did you find Emil's computer in his office at Two Rivers
2 when you went to service it?

3 A I think that computer was bought by Eugene Schreiber, so
4 after he bought it, I think I set it up.

5 Q I didn't quite hear what you said.

6 A It was bought by Eugene Schreiber.

7 Q Do you know when Emil started using it?

8 A When they moved from Passaic to Two Rivers.

9 Q So right at the beginning of the move-in?

10 A I guess.

11 Q Would that have been the early part of 2014, roughly?

12 A I think if you say so, yes.

13 Q Can you tell me why then, if you look at Stroz found on
14 that computer the user started on October 6th or so of 2015,
15 Emil?

16 A On the local?

17 Q Yes.

18 A It's probably set up by another user on there.

19 Q But there were no other users?

20 A There was no domain user. There had to be a domain user.

21 Q Did you call it domain user, the name?

22 A Just Emil.

23 Q And you would have set up that computer for him?

24 A The domain user, yes.

25 Q Okay. You mentioned before about that you've had checks

DIRECT - NUSSBAUM - J. NELKIN

1 from Emil on an ad-hoc basis.

2 Did you have the same deal with the other companies'
3 checks?

4 A No, not necessarily. No.

5 Q Did he cash those checks for you?

6 A I cashed one or two, but I don't think he cashed all
7 them, no.

8 Q So some of those went into your bank account?

9 A I guess, because I paid my credit card bill. It's the
10 same thing.

11 Q How would you pay your credit card bill with a check that
12 was not to you?

13 A You take it in to Chase, you hand over the check. It's a
14 third-party check paying for that bill.

15 Q I'd like to ask you about some user names, and if you
16 could just tell me if you know who they're associated with.

17 Can you tell me who Emil local is associated with?

18 A I assume Emil. That's just the user name that's not on
19 the domain, that's why it says "local".

20 Q Okay. And Emil?

21 A Emil, because I assume it was Emil. It might be part of
22 the domain, might not have been so if it's before the domain.

23 Q Okay. If it turns out that both the Emil local and the
24 Emil on Emil's office PC were set up, the earliest time stamp
25 is October 6th, 2015, can you explain that?

DIRECT - NUSSBAUM - J. NELKIN

1 A October 6th was on -- we said before was Yom Kippur, so I
2 can't explain it, no.

3 Q Can you set up a user remotely?

4 A It usually kicks you out if you try, but it's possible.

5 Q Okay. Who would Dov be?

6 A Dov is some manager that works in Mr. Friedman's Brooklyn
7 office.

8 Q Has he ever been in the Bronx?

9 MR. SCHAFHAUSER: Objection. Speculation.

10 THE COURT: Do you know if he's been in the Bronx?

11 THE WITNESS: Not that I know.

12 Q What about Rossi?

13 A Rosie is someone who works in the Brooklyn office.

14 Q Okay. What about Coffee?

15 A Coffee is just a user name. I mean, it's just a generic
16 name.

17 Q Who uses it?

18 A I don't think anybody did.

19 Q No one did. Okay.

20 What about office?

21 A Office is the one that somebody used for -- that's a user
22 name that she used on the coffee machine. Sonia, Sonia
23 Rivera.

24 Q What about Sonia?

25 A Sonia, I assume Sonia uses.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Any idea why we would find Sonia on a computer named
2 Sylvia PC as the user?

3 A No. I can't answer that.

4 Q Any idea why we wouldn't find --

5 A It might have to do with the time clock. Because the
6 time clock is also one that was used, and she would do the
7 time, the time data. So she might have had the ID user on
8 there. But I can't say for sure, because that was set up
9 before my time.

10 Q What was Sylvia's user name?

11 A I think she used the Rosie user name, but I'm not sure.

12 Q And what user name did Rosie use?

13 A In Brooklyn? She wasn't in the -- she wasn't on Sylvia's
14 computer.

15 You talking about Brooklyn? I think she used
16 Rosie -- there's no passwords over there, so probably said
17 Rosie.

18 Q And Sonya with a Y?

19 A That was only on the oil computers, the ones that are
20 part of the Park Avenue domain.

21 Q And who did that apply to?

22 A Sonia.

23 Q Okay. And do you know who Mike is as a user?

24 A On a computer?

25 Q Yeah.

DIRECT - NUSSBAUM - J. NELKIN

1 A No.

2 Q What about Dov 2?

3 A I guess that's Dov and -- Dov also, but I don't know
4 offhand.

5 Q Do you know if all -- if more than one account was
6 actively used on Sylvia's computer?

7 A I don't believe so, but I just know like when she called
8 me to note that there's no password on the computers, so I
9 just see the front screen.

10 Q What about on the office computer?

11 A As far as I know, the only account user was office.

12 Q What about on the time computer?

13 A The only one that was using that was, I believe, Sonia.
14 That was the name.

15 Q Okay.

16 A And these were all when I was involved in, you know.

17 Q I'd like to ask you about some email accounts now.

18 Who is 24houroilfuel@gmail.com?

19 A That's an email set up just for LogMeIn, because you need
20 an account to create LogMeIn. There's nothing in there.

21 Q Who used it?

22 A I probably set it up when I made the LogMeIn account.

23 Q And who used it for LogMeIn?

24 A You don't use the account for LogMeIn. When you open the
25 account to log you in, meaning you have -- I wanted to keep it

DIRECT - NUSSBAUM - J. NELKIN

1 separate from the email. The actual email that you use for
2 LogMeIn, you give the person user access.

3 Q And would that email account get email?

4 A From LogMeIn, probably just telling you when the bill
5 would come in.

6 Q All right. But it's your testimony that that was not
7 someone's active email?

8 A Correct.

9 Q What about SoniaTwoRiverCoffe with only one E?

10 A That's Sonia's email account.

11 Q Did she have other email?

12 A She might have. I think she had Sonia431. I'm not sure,
13 off the top of my head.

14 Q What about MyTwoRiversCoffee@gmail.com?

15 A MyTwoRiversCoffee, or just TwoRiversCoffee?

16 Q MyTwoRiversCoffee@gmail.com.

17 A That would be -- I don't recall. I never seen such an
18 email.

19 Q What about silverred@AOL.com?

20 A That's Sylvia's email.

21 Q Any idea why Sylvia's email would be stored on one of
22 Sonia's two computers?

23 A No. Which one was it on?

24 Q Let's say it was on office.

25 A I can't imagine why it would be on there.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Okay. Who --

2 THE COURT: Sorry to interrupt you. How long did
3 you say -- do you want to have our afternoon break now or
4 closer to 3:30?

5 MR. SCHAFHAUSER: Whenever.

6 THE COURT: Okay. Let's do it now, take a few
7 minutes.

8 (Recess was taken.)

9 THE COURT: Go ahead, Mr. Nelkin.

10 BY MR. NELKIN:

11 Q Mr. Nussbaum, Stroz found that Emil's office PC was used
12 to remotely log in to server office C using the account Emil,
13 and an IP address that they said was -- belonged to ECJ
14 Management at 127 Beverly Road, Brooklyn.

15 A Okay.

16 Q My question is: What would you have been logging into?

17 MR. SCHAFHAUSER: Your Honor, just an objection for
18 the record. When counsel --

19 THE COURT: What's the objection? Is it form?
20 Privilege? What?

21 MR. SCHAFHAUSER: Well, the objection is that --
22 well, lack of foundation is specifically an objection. He
23 says Stroz found that --

24 THE COURT: Okay. If somebody found that, predicate
25 the question that way. Okay?

DIRECT - NUSSBAUM - J. NELKIN

1 Overruled.

2 A What was the question again?

3 BY MR. NELKIN:

4 Q What would Mr. Friedman be remote logging into that had
5 that 127 Beverly address?

6 A The computer name?

7 Q And it showed up as server office C, can we assume that
8 that's a computer located there?

9 A If it's a remote desktop, not necessarily, no.

10 Q Well --

11 A He's logging into a computer, but it doesn't mean he's
12 actually working through a remote desktop. So not
13 necessarily, but possibly.

14 Q Our issue is we're trying to track down what server
15 office C is, because it shows up on the Launch as a computer
16 that's being used by Sonia, and we see that it's a computer
17 that Mr. Friedman remotely logs into, and it appears that it's
18 located in Brooklyn.

19 Do you know of any server in office coffee C?

20 A Not offhand, no.

21 Q Okay. And you didn't set up a computer with that name?

22 A No.

23 Q Now, could people besides the administrator, log in
24 directly as users to the servers at Two Rivers?

25 A Could you -- I guess -- no.

DIRECT - NUSSBAUM - J. NELKIN

1 Q If that's the case, can you explain how -- well, if Stroz
2 found that a user name Sonia logged directly into one of the
3 Two Rivers servers, could you explain that?

4 A No.

5 Q Okay. What's an SQL?

6 A That's the program that manages the database. The
7 Microsoft program that manages databases.

8 Q Okay. So if we see the name SQL, can we assume that
9 there's a database associated with it?

10 A No. If it was just a name that was set up on a computer?
11 No. You can't assume that. I mean, it was set up to host the
12 database, but you can't assume that there was ever a database
13 there.

14 Q Who set up the servers at Two Rivers?

15 A I plugged them in and set them up, yes.

16 Q Do you know if there were databases on them?

17 A Yes, at one time. Yes, he did have on the fail one, his
18 database that was also on the launch system.

19 Q How did that database get onto that server?

20 A I assume we logged in, remote login, and copied it on it.

21 Q And then once it's copied on, it was on that server?

22 A Correct.

23 Q How would it leave that server? What would have to be
24 done to remove it from the server?

25 A You have to copy it off.

DIRECT - NUSSBAUM - J. NELKIN

1 Q When you say "copy it off," what do you mean?

2 A I mean copy it off. Log in remotely to see what's on the
3 location, obviously, and copy the file. It's a database file.

4 Q When I copy a file on my computer, it creates a
5 duplicate.

6 A Well, there's two commands in Windows system. There's
7 move and copy.

8 Q Okay. And what does moved to?

9 A Moves it from one place to the next.

10 Q And if you move something off of a server, does it cease
11 to exist on the server?

12 A Yes.

13 Q Okay. And would there still be some evidence that it had
14 historically been on the server?

15 A Probably.

16 Q What would eliminate that evidence?

17 A I have no idea.

18 Q Would wiping software?

19 A Well, unless you wiped the entire server, the server is
20 still accessible, it probably would not eliminate it.

21 Q What if you overwrote it?

22 A Overwrote the server? The evidence that was there or the
23 overwrote the database?

24 Q Overwrote the database.

25 A Well, then the database wouldn't be there anymore. You

DIRECT - NUSSBAUM - J. NELKIN

1 can still see the evidence that it was there.

2 Q And what if you overwrote the log files?

3 A I would have no idea.

4 Q So you would expect to see some evidence on the Two
5 Rivers server of the databases that you know used to be there?

6 A On the failed, the server that failed.

7 Q And what about on the main?

8 A I don't think -- I don't think -- it was only there as a
9 mirror. It was never actually being used, so I don't know
10 exactly what he kept on there.

11 Q But if it's mirrored, isn't it --

12 A I'm just repeating what he told me he would use it for.
13 That's what we went through this before.

14 Q I'm not asking you what he told you, I'm asking you as a
15 computer person, when something is mirrored, is it stored on
16 the mirrored device?

17 A It's -- I assume it's the same database. I can't say for
18 sure, but I assume so.

19 Q And isn't the point of having a mirror so if one fails,
20 it's on the other one?

21 A Well, the point of having a mirror so it could be
22 restored quick. It doesn't mean it's exactly the same.

23 Q What would cause it to be different?

24 A You have to speak to a database person.

25 Q But the idea of being able to restore something quickly

DIRECT - NUSSBAUM - J. NELKIN

1 is to be able to make it back to the way it was.

2 A Right, you can make it back to it was, but it doesn't
3 mean it would be the same way.

4 Q What's -- how would you rate Mr. Friedman's computer
5 skill sets?

6 A Extremely low.

7 Q Could he install a user name?

8 A No.

9 Q Could he name a computer?

10 A No.

11 Q Could he create a signature block?

12 A I doubt it. No.

13 Q Okay. Did you ever create a signature block for him on
14 any device?

15 A No.

16 Q What about Miss Ezell's computer skills?

17 A Also very low.

18 Q Could she do any of those three functions I asked you
19 about?

20 A I -- no.

21 Q Okay. What about Miss Rivera?

22 A No.

23 Q Is there anyone you can identify who had strong skill
24 set, computer skill sets, at these companies?

25 A Me. Yossi. Yossi wasn't involved in the individual

DIRECT - NUSSBAUM - J. NELKIN

1 devices, but I mean you ask about skill sets.

2 Q Besides you and Yossi, anyone else?

3 A No.

4 Q All right. I'd like to ask you some questions about a
5 couple of the defendant's exhibits. I think there's a binder
6 up there. I'd like to ask you about D22.

7 First off, what is it?

8 MR. SCHAFHAUSER: Mr. Nelkin, I don't know whether
9 the Court -- Your Honor, it's a volume which we put up this
10 morning.

11 THE COURT: Okay.

12 MR. SCHAFHAUSER: Yes, thanks.

13 THE COURT: Okay. Go ahead. Thank you.

14 Q Mr. Nussbaum, under the subject line, it says a date and
15 a time and next to it it says America/Los Angeles.

16 A Yes.

17 Q What is that showing, the America/Los Angeles?

18 A I have no idea at all.

19 Q I mean, you don't know what that refers to?

20 A I mean, I know the city of Los Angeles. I don't know why
21 it says it in the subject line. I don't know where that came
22 from.

23 Q Okay.

24 A I've never been to Los Angeles, if that's the question.

25 Q Okay. So you have no knowledge as to why it is in the

DIRECT - NUSSBAUM - J. NELKIN

1 subject line?

2 A Unless it's referring to the time, the time is off.
3 That's referring to the time from Los Angeles, because they
4 had a rolling location. It keeps -- gmail keeps the location
5 on the time. That's the time based on that. So that's the
6 one possibility.

7 Q Does time normally show up in the subject line?

8 A I have no idea. I really don't know what that is.

9 Q Okay. Generally, when you receive an email from someone
10 in a different time zone, whose time shows up on your email?

11 A It depends. If you're using an online system, it depends
12 how they have it set up.

13 Q How did it work with you and Mr. Rogosnitzky?

14 A I don't particularly pay attention to it, so I really
15 can't -- I just saw it in the email. I read it. I never
16 really looked at the times.

17 Q Okay. On D22 on the text, it says -- to you it says: "I
18 gave back manager status. She needs to be able to edit orders
19 and invoices. She is presently functioning as bookkeeper
20 whether you agree or disagree with the hiring decisions."

21 Do you know what this email is talking about?

22 A Yes, it's referring to Cindy, who works in the Passaic
23 office. And Yossi was quite angry at her. He called her a
24 total idiot because she was entering things into expenses,
25 into just the wrong place.

DIRECT - NUSSBAUM - J. NELKIN

1 So he went and changed her status so she shouldn't
2 be able to enter, because she was -- I guess she was messing
3 things up. And I told him that she's the one that has to do
4 it it's her job.

5 Q Did anyone tell you to change her status back?

6 A I was told -- I assume probably Steven.

7 Q Did anyone else ever tell you to change a status for
8 someone?

9 A Not offhand, no. I mean, Vince asked me once, I think
10 for Sandra. She needs different access. But, I mean, I don't
11 remember every detail two and a half years, three years.

12 Q Okay. If you turn to D24. It says -- this is from
13 Steven to, I think, you it says: "Please open all access to
14 Launch Coffee program."

15 What would you have had to do to open the access to
16 that program?

17 A Change the status, I assume.

18 Q That's it?

19 A Yes.

20 Q Things are popping up as unauthorized.

21 A See there was no response. Probably had to do with a
22 connection issue. It was probably fixed and so no response
23 after this.

24 Q And, Mr. Nussbaum, you were, as I understood, asked to
25 speak on behalf of the different companies.

DIRECT - NUSSBAUM - J. NELKIN

1 A Regarding the physical computers. Yes, sir. Yes.

2 Q And there were -- well, first off, who did you speak to
3 about doing this?

4 A I was asked by David Grantz. Also asked by the -- I
5 think his name is Heller.

6 Q Did you meet with them?

7 A David Grantz I met with. I believe he called me on the
8 phone. Heller called me on the phone. I met him here.

9 Q All right. Besides speaking to the lawyers, what else
10 did you do to obtain information to be prepared to discuss
11 these topics today?

12 A I went and visited the facilities, but the Bronx,
13 Brooklyn and I looked at some he computers. And I made a list
14 of them.

15 Q That was for your affidavit, right?

16 A Yes.

17 Q Did you do it after that?

18 A Did I go back and look at them?

19 Q Yes.

20 A I think Paul called me and told me I should refresh
21 myself, so I went to the Bronx, this past Wednesday or
22 Thursday, I was there, refresh myself just to look at all the
23 computers.

24 Q What about Brooklyn?

25 A I was in Brooklyn last week, so I may have just glanced

DIRECT - NUSSBAUM - J. NELKIN

1 at them in Brooklyn.

2 Q Okay. And when you glanced at them, did you access them
3 in any way or do anything besides look at them?

4 A They were on, I could see what the front desk screens, I
5 see what they are.

6 Q But that would just reflect whatever was there?

7 A There's no -- there are multiple users there.

8 Q Wait, you said there are multiple users --

9 A I said there aren't multiple users. The desktop screen
10 is the screen.

11 Q Did they have some sort of a screen saver?

12 A In Brooklyn, no.

13 Q There's no screen saver?

14 A Now, it's Windows 10, just recently a Microsoft upgrade
15 puts up a picture until you hit the enter key.

16 Q So did you hit the enter key?

17 A I did.

18 Q For each of the computers?

19 A Yes. Well, the ones that were working, I didn't have to,
20 because you could see the desktop screen.

21 Q Was there someone there when you went there?

22 A Rosie was there. Dov was there.

23 Q Did you look over their shoulders? Did you sit at the
24 computer? What did you do?

25 A In Brooklyn, I looked over their shoulder.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Just whatever they were working on?

2 A Well, you could see what's on the computer. I mean, you
3 could see that was the real estate. It has the real estate
4 program on the desktop. It says RIS Wing, R-I-S Wing.

5 Q Did you install that icon?

6 A I called the guy who wrote the program, and he put a log
7 on. He actually did the install.

8 Q I thought you said that you couldn't install an icon
9 remotely.

10 A That's his program. Are you talking about the Launch
11 system, or on someone else's program?

12 Q I'm talking about icons.

13 A Depends how the system is set up.

14 Q And what did you do in the Bronx?

15 A I actually logged on to each computer.

16 Q Okay. But were all the computers there?

17 A Two of them were. Some of them were by the lawyers.

18 Q Okay. So those you couldn't refresh your memory on?

19 A Correct.

20 Q Do you remember which ones were at the lawyers and which
21 ones weren't?

22 A Time. Sylvia. Office HP. Sylvia's computer was there
23 from the Bronx.

24 Q Was there?

25 A Was there, yes.

DIRECT - NUSSBAUM - J. NELKIN

1 Q And what date did you go?

2 A To the Bronx?

3 Q Yes.

4 A It was either Wednesday or Thursday.

5 Q Of this?

6 A This week, yeah.

7 Q Are you sure Sylvia's computer was there?

8 A Yes. I mean, it wasn't in the Bronx or by the lawyers?

9 I said it was by the lawyers.

10 Q I asked you which one. You said Sylvia was still there.

11 A No, I didn't say that. I said it was here by the
12 lawyers.

13 Q Okay. So you were unable to look at any of those three?

14 A Correct.

15 Q Now, I had a number of topics I asked to inquire about.

16 I just want to know which of those you're competent.

17 THE COURT: You know what, ask the question you want
18 to ask him.

19 MR. NELKIN: Okay. All right.

20 Q Can you tell me anything about which computers any of
21 these companies owned?

22 A Actual ownership?

23 Q Yes.

24 A No. I can't -- the actual ownership, no. I just know
25 what they were connected to.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Can you tell me which companies used them?

2 A The oil companies, those I know were used by the oil
3 companies.

4 Q They're different oil companies?

5 A But the oil companies all had three icons on them;
6 24-hour, Click. I don't remember the name of the third one.

7 Q What about Associated Fuel?

8 A I don't think there's any icon that says Associated Fuel.

9 Q So I'm just asking if you can tell me whether Associated
10 Fuel --

11 A I just --

12 THE COURT: Stop interrupting, please.

13 Q I'm just asking, maybe you can tell me if Associated Fuel
14 uses any of these computers.

15 A I just know the oil companies. I don't know the
16 corporate, you know, entities.

17 Q Okay. But my question to these companies is to please
18 identify which computers each company used, and I'm asking you
19 if you're competent to tell me that?

20 A To identify their oil companies.

21 Q What about the coffee companies? Can you tell me which
22 coffee companies used any of these computers?

23 A I know Sonia's computer, the ones that weren't there was
24 used by Two Rivers.

25 The one that the coffee companies, you're referring

DIRECT - NUSSBAUM - J. NELKIN

1 to 26 Flavors?

2 Q There's a number of them.

3 A Those are all remote desktops. Some need remote help.

4 Q If I were to ask you, please tell me which of these
5 computers --

6 A Which computer launched from a desktop?

7 THE COURT: I'm going to ask you one last time, sir.
8 Do not interrupt the question so that we have a clear record.

9 THE WITNESS: Okay.

10 Q I'm simply asking you, my question is: Which computers
11 did a particular coffee company utilize? Can you tell me the
12 answer to that question?

13 A I know Sonia logged into her remote desktop to a server,
14 to remote coffee, you know, the 26 Flavor server. That can be
15 done from any computer, so --

16 Q I don't really think that's my question. My question --

17 A I don't understand your question.

18 THE COURT: Why don't you move on, because he
19 doesn't know the answer to your question.

20 MR. NELKIN: Okay.

21 Q Can you tell me which defendants employed Miss Ezell,
22 Miss Rivera, Mr. Salcedo and Mr. Friedman?

23 A Who employed Mr. Friedman? I know Mr. Friedman employs
24 Sylvia, Sonia, I think and Jorge worked for him. I don't know
25 who employs Mr. Friedman.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Well, do you know who employs the other people?

2 A I just said I assume Mr. Friedman.

3 Q Do you know which company Mr. Friedman -- what other
4 companies employ any of those people?

5 A Well, I know Sonia worked for the oil companies and then
6 she was working for the coffee companies.

7 Q If I asked you who wrote Sonia's check, could you tell me
8 that?

9 A Offhand, no. Why would I see Sonia's check?

10 Q I'm just asking if you could tell me what company she
11 worked for?

12 A I mean, I know what -- like she called me about a
13 particular thing, I would know if she is working on coffee or
14 working on oil, but I can't answer to her checks.

15 Q But you can't tell me who her formal employer is?

16 A No.

17 Q Could you do that for Ms. Ezell?

18 A Who wrote her check?

19 Q Who her formal employer was.

20 A No.

21 Q Can you tell me that for Mr. Salcedo?

22 A I assume it was the oil companies, but...

23 Q I'm not asking you to assume. I'm just asking if you
24 know.

25 A Hmm.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Okay. Could you tell me which of the real estate
2 companies used a particular computer?

3 A No. I know the computers in Brooklyn are used for the
4 real estate companies. I don't know the corporate entities,
5 so I can't answer that.

6 Q Could you tell me which computers Miss Ezell had access
7 to?

8 A Well, she had only one computer that she used. If she
9 sat down by another computer, I have no way of knowing that.

10 Q Do you have any idea if she had any email accounts or
11 user accounts on other computers?

12 A The only think that I know, she used an AOL account, so
13 somebody set her up for -- for the lawyer. As far as I know,
14 she only used it online.

15 Q Well, would you check, is there any way to see --

16 A I didn't see any clients, any email clients in the other
17 computers.

18 Q Did you see if there were any evidence she used those
19 computers?

20 A No.

21 Q Did you look at every computer Rossi used to see if there
22 were any TRC files on it?

23 A Rosie in Brooklyn?

24 Q Yeah.

25 A I looked at the Brooklyn computer. I didn't do a search

DIRECT - NUSSBAUM - J. NELKIN

1 on every computer.

2 Q So you have no idea whether there are Two River files on
3 those or not?

4 A I'm not sure it's Friedberg, but I looked at -- I mean I
5 know what she does, what she functions at, what she basically
6 does for work.

7 Q How do you know that?

8 A I know she works in the real estate office and people
9 come and pay rent. I mean, I've been there. I've seen it.

10 Q So you've seen her in the office?

11 A She works for the real estate. That's what she does.
12 Does she do something else? I can't --

13 Q Do you know what company does she works for?

14 A I think it's it called EJ JERYG, something like that.

15 Q So you're not sure?

16 A I know it's on the door.

17 Q Can you tell me how many companies use that office?

18 A No.

19 Q Do you know of any company besides Mr. Friedman's who
20 uses that office?

21 A Well, there's other floors there. I wouldn't know.

22 Q Do you know if any charities operate out of that office?

23 A I wouldn't know.

24 Q Or any other entities?

25 A I would not know.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Besides the real estate company?

2 A I would not know.

3 Q Okay. Do you know whether any of these companies possess
4 any electronic information related to Two Rivers?

5 A I assume not, but...

6 Q But you have no idea?

7 A I can't say absolutely. I mean, I can't imagine why they
8 would.

9 Q But did you do anything to check?

10 A They asked me to check the physical computers, obviously,
11 I didn't do a full search on every computer.

12 Q So what did you do?

13 A I opened the computer and checked basically what the
14 usage of that computer was, and put that down in the
15 affidavit. If someone else used it for somebody else, there's
16 no way I can possibly --

17 Q How did you check the usage?

18 A See if it has the real estate icon, that's the basic
19 known use of the computer, then I put it down as a real estate
20 computer. If it had the oil icons on it, I know it was used
21 for oil, and I put it down as an oil computer.

22 Q So your testimony is you basically looked to see what
23 icons were on the computer and that was what you --

24 A I set them up, I know what they were used for, but I
25 can't say -- when I say "used," I can't say nobody ever sat

DIRECT - NUSSBAUM - J. NELKIN

1 down and opened up emails on it. There's no way of knowing
2 that.

3 How would I possibly know that?

4 THE COURT: I take it if you imaged the computer and
5 do a search and you can find out?

6 THE WITNESS: I can do it.

7 THE COURT: You can?

8 THE WITNESS: I can do that.

9 THE COURT: All right.

10 BY MR. NELKIN:

11 Q Now, could you tell me which companies have access to the
12 launch computer system?

13 A The launch for Two Rivers? Separate systems.

14 Q Can you tell me which companies have access to any launch
15 computer system?

16 A Well, Two Rivers was using it. And I know now 26 Flavors
17 and Office Coffee. I think Perfect Samples was using it.

18 Q Who is Perfect Samplers?

19 A I have no idea, it's just an icon that I put on.

20 Q You don't know if it's a company or not?

21 A I have no idea.

22 Q Okay. Did you ask anyone?

23 A No, it's not something that I would think about.

24 Q Okay. Can you tell me, if I asked you, which company has
25 custody and control of any of those computers?

DIRECT - NUSSBAUM - J. NELKIN

1 A Which computers?

2 Q Any of the ones in your affidavit. If I said:

3 Mr. Nussbaum, who has custody and control of this computer?

4 A It's a legal term, so I really can't answer that. I can
5 tell you where the computers are.

6 Q But you don't know who controls that space or owns that
7 space?

8 A No.

9 Q You don't know who's responsible for that space?

10 A No. I assume Mr. Friedman, but I can't, you know...

11 Q Do you know who the owners of Park Avenue are?

12 A No.

13 Q Do you know if Mr. Friedman is a member of Park Avenue?
14 It's an LLC.

15 A No.

16 Q Okay. If I had a 26 -- if I had a sworn statement from
17 Mr. Ahearn that says that Mr. Friedman was not a member of
18 26 -- of Park Avenue, would that surprise you?

19 A No.

20 Q So how would you get information about Park?

21 A The only thing I know about Park is that was the name of
22 the domain left over from previously, that's all. I don't
23 know anything more than that.

24 Q And it was on your résumé as to who you worked for.

25 A I copied it off the domain that I worked with.

DIRECT - NUSSBAUM - J. NELKIN

1 Q Okay. Do you know if Park even exists today?

2 A I have no idea.

3 Q Do you know if any of these company still exist today?

4 A How should I know?

5 Q Okay. Do you know if -- if I was to ask you about any
6 particular company's storage and backup of electronically
7 stored data, would you able to tell me about that?

8 A I don't know. You can ask.

9 Q Well, how does each company electronically store their
10 data, backup their data?

11 A The launch system Yossi Rogosnitzky controls. I believe
12 he basically had a backup part of the service. Also for that
13 service, he usually paid for access to the software. And the
14 person who owns the software controls, takes care of the
15 backups, takes care of the complete functioning of the
16 software.

17 And the oil company is being backed up from one
18 drive to another on the oil server, I believe, which is
19 locally, just one direct to the another. It just copies.

20 And what else?

21 Q Well, I'm just asking you if I was to ask you, can you
22 describe in detail how each company --

23 A It's own --

24 Q How does E&J Funding back up their computers?

25 A So I think they are using iDrive.

DIRECT - NUSSBAUM - J. NELKIN

1 MR. SCHAFHAUSER: Objection.

2 MR. FINKEL: The objection is that he
3 mischaracterized the testimony.

4 THE COURT: His testimony.

5 So do you understand the question?

6 THE WITNESS: Some of it.

7 THE COURT: Ask the question again.

8 BY MR. NELKIN:

9 Q How does E&J Funding back up their computers?

10 THE COURT: That's not even characterizing the
11 testimony. That's overruled.

12 A I believe they use an iDrive account.

13 Q Okay. And how does -- where is that iDrive account?

14 A It's an iDrive.

15 THE COURT: What is an iDrive? I don't know what
16 you are talking about.

17 THE WITNESS: iDrive is a company, an online
18 company, that let's you back up your whole computer to their
19 online.

20 THE COURT: Basically a cloud storage?

21 THE WITNESS: Yes.

22 THE COURT: All right.

23 Q Okay. And how does E&Jeryg back up their computers?

24 A That's iDrive. That's the same.

25 Q So you're saying all the real estate companies --

DIRECT - NUSSBAUM - J. NELKIN

1 A I only know about the server in Brooklyn has iDrive on
2 it. I can't talk about the --

3 Q You can't tell me if E&J Funding has a computer or not?

4 A No.

5 Q And you're unaware of any hard drives that any of these
6 companies use?

7 A I'm, you know, aware of the ones that I viewed in the
8 computer screens.

9 Q Are you aware of any external ones?

10 A Not offhand.

11 Q Are you aware of any that would be plugged in through a
12 USB port?

13 A Not offhand, no.

14 Q What do you mean by "not offhand"?

15 A No.

16 Q Okay. And do you know the passwords or -- for the
17 iDrive?

18 A The iDrive for the --

19 Q For the real estate companies.

20 A Dov Sandberg set that up as a backup, so I don't have a
21 password.

22 Q Okay. Can you tell me about what steps each of these
23 companies took to preserve the four computers that were
24 imaged?

25 A Sylvia's computer was still being used.

DIRECT - NUSSBAUM - J. NELKIN

1 Q So can we assume that no steps were taken?

2 A Nothing was deleted, as far as I know. But she's still
3 using it.

4 Q Well, what did you do to assess whether anything was
5 deleted?

6 A I'm just saying as far as I know. Nobody told me
7 anything about it.

8 Q Do you know if any of these computers were set up so that
9 they automatically overwrote data?

10 A Not that I know of.

11 Q Do you know if they automatically saved over files?

12 A No, not that I know about.

13 Q Okay. Are you aware of -- is that an unusual practice
14 for computers to overwrite?

15 A Well, if you continue using the computer, it's going to
16 overwrite old data. It just does it automatically.

17 (Continued on next page.)

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HEADER B. Nussbaum - Direct/Mr. Nelkin

1 BY MR. NELKIN (cont'd.):

2 Q How does it overwrite the data?

3 A By overwriting new data.

4 Q So you are saying if I have a program that I saved to my
5 computer, it's going to disappear over time?

6 A No, but if you delete it first, it's going to overwrite
7 it.

8 Q But I would have to actively delete it first?

9 A You would have to actively deletes it yes.

10 Q If no one actively deletes it, it should be still be
11 there?

12 A I assume so.

13 Q What about the other computers besides the one that
14 Ms. Ezell that remained in use?

15 A What about them?

16 Q Can you tell me what steps, if any, were taken to
17 preserve them?

18 A Well, I unplugged them and put them in Mr. Friedman's
19 office.

20 Q You are the one that unplugged them?

21 A Right.

22 Q When did you unplug them?

23 A Quite a few months ago. I don't remember the exact date.

24 Q And who asked you to do that?

25 A Probably Mr. Friedman.

HEADER B. Nussbaum - Direct/Mr. Nelkin

1 Q And who told you where to put them?

2 A I just put them there because that's where they have all
3 the computer stuff kept.

4 Q What other computer sufficient is kept there?

5 A There's old monitors and wires.

6 Q Old what?

7 A Old monitors old wires, just put them in the corner
8 there.

9 Q Did you tell anyone you did that?

10 A Well, Sonia in the office knew I did it.

11 Q Okay. Did you talk to anyone about what types of files
12 were on their computers?

13 A No.

14 Q Okay. Did you do anything with respect to the servers or
15 anything besides the computers to check what types of
16 information might be found on those computers?

17 A Which servers?

18 Q Any server.

19 A The oil server nobody has access to except for me, so I
20 know there's nothing on there. And the real estate server,
21 only one that has access to is me and Dov. And the others, I
22 mean the servers, Two Rivers, is in Two Rivers, so nobody has
23 access to that.

24 Q But if the computer is set up and connected to that
25 server --

HEADER B. Nussbaum - Direct/Mr. Nelkin

1 A Which server?

2 Q Let's take the oil server, for instance.

3 A Correct.

4 Q Let's say Ms. Rivera had a computer that was connected to
5 that server.

6 A Correct.

7 Q So if she got in some sort of -- if she created a file on
8 that computer --

9 A On her local computer?

10 Q Yes.

11 A Yes.

12 Q -- wouldn't that be found perhaps on the server?

13 A No.

14 Q Why not?

15 A It just that's not the connection. The connection is not
16 powerful. We can't just connect through. It's not how it
17 works.

18 Q What does the server do for the computer?

19 A It holds the database and passes that information to our
20 front screen. It has nothing to do with what's kept locally
21 on the drive at all.

22 Q But couldn't she somehow do something with respect to the
23 database?

24 A No.

25 Q If the oil -- the servers were used for billing and

HEADER B. Nussbaum - Direct/Mr. Nelkin

1 invoicing?

2 A As far as I know it was used just for taking orders and
3 calculating the oil.

4 Q Okay. If Two Rivers was charged for oil and invoiced for
5 oil by one of the oil companies, would we find that on the
6 server?

7 A No.

8 Q Why not?

9 A Because that was probably kept in accounts, in the
10 corporate checking that she used for the oil company.

11 Q And where would that be?

12 A That was locally on a computer and I believe it was on
13 the client computer.

14 Q So what information would be on that server?

15 A The database that holds the orders, the different who the
16 customers are, what they ordered previously.

17 Q Well, Two Rivers is a customer?

18 A I said they ordered, but it's not going to have the
19 billing. The billing is done in the corporate checking
20 program.

21 Q But it would show an order for them?

22 A It would show that they ordered some oil, yeah.

23 Q Okay. So did you check to see if there was anything
24 there?

25 A On the server?

HEADER B. Nussbaum - Direct/Mr. Nelkin

1 Q Yes.

2 A I didn't have to. I mean, I inputted in, but there was
3 nothing on it except for the database.

4 Q But you don't know what's in the database?

5 A It's customer information. You can't just put files in
6 the database. You will destroy it. It has to be done through
7 the front end. You can't just put things into the database.
8 You have to use the front end. There might be customers in
9 there. The customer might have been Two Rivers. But that's
10 like anything that has a name of a customer in it. You can't
11 just put names in a database. You would destroy the database.

12 Q But you didn't check to see whether Two Rivers was found
13 there or not?

14 A I didn't have to check; whether they have a customer?

15 Q Yes.

16 A I didn't check if they are I customer or not.

17 Q Okay. And if, if we were trying to decide because there
18 was an issue in this case whether they were a customer or not,
19 we might want to be able to check and see what the server
20 says. Is that possible?

21 A You wouldn't be able to access it through the server.
22 You need the front end. You can't just meet a database from
23 the back end.

24 Q We can deal with computer issues. I'm just asking if the
25 information might be found there?

HEADER B. Nussbaum - Direct/Mr. Nelkin

1 A As a customer, yeah, I guess.

2 Q Okay, thank you. Now, could you tell me about each of
3 these companies. Do you have knowledge about these of these
4 companies, employment or utilization of Mr. Rogosnitzky?

5 A You are talking about the actual formal employment? No.

6 Q Okay. So we would have to get that information from
7 someone else?

8 A Yeah, I guess.

9 Q Okay. Now, what's found on the server in Brooklyn?

10 A The real estate?

11 Q Yeah.

12 A I guess it's the same. I never really dealt with it. I
13 sat with the server, but I never actually looked at the
14 information.

15 Q And again, if Two Rivers was a customer of those real
16 estate companies for any transaction, we might find that on
17 the servers there?

18 A You might.

19 Q Okay.

20 MR. NELKIN: Your Honor, if I could just have a
21 couple of minutes to look at my note, I think I might be done.

22 Q Mr. Nussbaum, were you aware of the temporary injunction
23 in this case?

24 A Not 'til --

25 THE COURT: Repeat your answer.

HEADER B. Nussbaum - Direct/Mr. Nelkin

1 A Not until I was told to show up on February 2nd if, in
2 case I was called as a witness.

3 Q From February 2nd you knew there was a preliminary
4 injunction in case?

5 A I knew, yeah, I didn't think exactly what the claims
6 were, but --

7 Q Well, did you know that --

8 A I knew there was something going, an injunction. I
9 wasn't supposed to touch.

10 Q So you knew there was some restriction?

11 A Right.

12 Q And did you consult with anyone about what you could or
13 couldn't do?

14 A On the oil computers, I just whatever they told me not to
15 touch, I didn't touch.

16 Q Okay. Who told you anything and when did they tell you?

17 A Mr. Friedman or Paul may have told me, Paul Schafhauser.

18 Q Did you meet with Paul or did you talk to him on the
19 phone?

20 A Probably called me on the phone.

21 Q And what did he tell you?

22 A He told me told me not to touch those two computers. He
23 didn't tell me anything about Sylvia's computer. And that
24 was, I think that was pretty much it.

25 Q Okay. And do you remember Mr. Friedman told you

HEADER B. Nussbaum - Direct/Mr. Nelkin

1 anything?

2 A Particulars, I don't remember, no.

3 THE COURT: What do you recall?

4 THE WITNESS: What?

5 THE COURT: What do you recall?

6 THE WITNESS: Probably told me to speak to Paul and
7 Paul would describe.

8 THE COURT: Can I ask you to swing the microphone.
9 Thank you.

10 THE WITNESS: Probably told me to speak to Paul and
11 Paul would describe exactly what.

12 Q Did you talk to anybody else?

13 A Offhand I don't remember. No, I mean, conversation,
14 mentioned it to my lawyer, but --

15 Q What about Mr. Finkel?

16 A At that time did he call? I don't think so. I don't
17 think I spoke to me at that time; I don't recall.

18 Q Did he speak to you at any point?

19 A Not directly then. More recently he called me and asked
20 me questions about how different things worked, but back then,
21 I don't believe so.

22 Q Who unplugged Ms. Ezell's computer?

23 A Who unplugged it? I don't -- I don't think I was near
24 when they told me Stroz was coming to pick it up. I think
25 they unplugged it.

HEADER B. Nussbaum - Direct/Mr. Nelkin

1 Q Who delivered the computers to Mr. Schafhauser?

2 A I have no idea. I'm not there every day.

3 Q And when you went and looked at them for your affidavit,
4 besides that, when was the -- had you ever, from the time they
5 were unplugged until the time you looked at them on your
6 affidavit, had you accessed them in any way, shape or form?

7 A I don't remember doing so.

8 THE COURT: I can't hear the answer.

9 THE WITNESS: I don't remember doing so, no.

10 Q But do you know if anyone else did?

11 A No.

12 Q But you weren't onsite?

13 A Not every day, no. I go about once every two weeks.

14 Q Okay. I just, and I just want to make sure that you told
15 me, you can't tell me which companies have -- like you can't
16 tell me if E&J Funding has a computer or not; is that correct?

17 A No, I can't say affirmatively that they don't have a
18 computer, of course not.

19 Q And you can't say that they do?

20 A Well, none of the computers that I worked on, what I
21 described E&J Funding, that I can say. The computers in
22 Brooklyn I used for real estate. E&J Funding have any real
23 estate, I have no idea. If it does, then maybe, but if it has
24 nothing to do with real estate, then I don't know.

25 Q If Two Rivers had a loan with E&J Funding, would you have

HEADER B. Nussbaum - Direct/Mr. Nelkin

1 any idea where the records are kept for that loan?

2 A No, no idea.

3 Q Okay. When you were in any of these offices, did you
4 observe any file cabinets or files?

5 A They had file cabinets in Brooklyn, yes.

6 Q What about the Bronx?

7 A Some file cabinets in the Bronx.

8 Q Did they have any in Sonia's office?

9 A I think she had a file cabinet in her office, yeah.

10 Q Do you know what's in it?

11 A No.

12 Q Do you know if Ms. Ezell has a file cabinet in her
13 office?

14 A Possibly.

15 Q Do you know if Mr. Friedman has a file cabinet in his
16 office?

17 A Actually, I don't believe so.

18 Q Okay. Do you know if they have any file cabinets
19 elsewhere in the office?

20 A Not offhand, no.

21 Q And did you --

22 MR. NELKIN: I think that's it, Your Honor.

23 THE COURT: Okay. Who would like to inquire first?

24 MR. SCHAFHAUSER: I'm happy to start, Your Honor.

25 THE COURT: Do you need a moment?

Nussbaum - Cross - Schafhauser

1 MR. SCHAFHAUSER: I happy to go ahead, appreciate
2 it.

3 CROSS-EXAMINATION

4 Q Mr. Nussbaum, I wanted to go back to this morning and
5 counsel's questions about access to Launch. And he asked you,
6 I believe, about, or he referenced some instructions that you
7 gave about accessing Launch.

8 A Presently?

9 Q Well, I'm going to read to you something because,
10 frankly, I don't have exhibits made, but counsel has and it
11 was part of the submission to the Court.

12 I am going to quote this and see if you recognize
13 this: "In order to log into Launch, you need to open a remote
14 desktop connection. That is done by clicking on the 'start'
15 button and typing 'remote desktop connection'. The icon will
16 pop up and you will need to click on it. Type in the
17 box '45.43.1.62.' Hit 'connect,' enter your name and the
18 password 'Welcome 1' with a capital 'W.' It will ask you to
19 choose a password. Once you do, Launch will open and then you
20 can enter your previous user name and password," end of quote.

21 Do you recognize those words?

22 A Yes. I wrote them.

23 Q You wrote those words? And you wrote them recently,
24 correct?

25 A Friday I believe it was.

Nussbaum - Cross - Schafhauser

1 Q Friday?

2 A Thursday, Friday.

3 Q And where did you get those instructions?

4 A Yossi called me and told me how he reset up Launch.

5 Q And do you have an understanding as to what

6 Mr. Rogosnitzky did to reset up -- when you say "reset up

7 Launch," what access and functionality do you understand from

8 Mr. Rogosnitzky -- I have trouble with the full name -- what

9 access do you understand he reinstituted?

10 A Exactly the same way it was.

11 Q So just so I understand, if someone had a password in

12 February of this year, your understanding from Mr. Rogosnitzky

13 is that same password would be available to access Launch?

14 A Correct.

15 Q If someone had a user name in February, that same user

16 name would exist now; is that right?

17 A Correct.

18 Q Now, you have an access to Launch since, well, since it

19 was reinstituted, you have an access to Launch, correct?

20 A No.

21 Q And you have an access to Launch why?

22 A Not allowed to.

23 Q And you are not allowed to based on your understanding of

24 the preliminary injunction, correct?

25 A Correct.

Nussbaum - Cross - Schafhauser

1 Q Okay. Now, if the Court were to grant permission, would
2 you be willing to work with the plaintiff and Stroz to
3 facilitate access to Launch?

4 A Yes. I will just go through those instructions exactly
5 how they are written.

6 Q And did Mr. Rogosnitzky tell you when he reinstituted
7 Launch?

8 A I guess must have been sometime Thursday. I don't know
9 yet.

10 Q And did you speak with him -- did you actually confirm
11 with him that he did reinstitute Launch?

12 A Yes. He told me it's open. These are the instructions
13 to pass along.

14 Q I want to go to some -- another issue that relates to
15 Launch and Mr. Rogosnitzky. You testified that sometime --
16 well, you were asked questions about what you referred to as
17 the fail database. Do I have that right?

18 A That's just the name of the computer I linked with the
19 database.

20 Q The fail computer, and there is -- that is what? That is
21 a server?

22 A That is a server.

23 Q That is a server? And you were asked questions about the
24 apparent removal of Launch-related information in or about
25 October 2015. Do you remember those questions?

Nussbaum - Cross - Schafhauser

1 A Yes.

2 Q Okay. This is my question to you. Did you have any
3 involvement in the removal or transfer or relocation of any
4 materials from Launch in October 2015?

5 A No.

6 Q Do you have an understanding as to whether Mr. Friedman
7 had any involvement in the removal, transfer or relocation of
8 any materials relating to Launch?

9 A Physically he would have no clue how. I know that for
10 sure.

11 Q When you say "he would have no clue" for sure, it doesn't
12 sound like you are complimenting his technical abilities.

13 A No.

14 Q What is your understanding as to his technical skill
15 level when it comes to computers?

16 A Extremely low. I mean, he knows how to log into Yahoo,
17 his e-mail. Even that's an ordeal. And other things which
18 you show him 50 times, he knows how to do it.

19 Q Let's -- let's -- let's stay with this issue for a
20 moment. Do you know, do you have personal knowledge as to
21 who, if anyone, removed or caused the transfer of the Launch
22 data in October 2015?

23 A I don't have personal knowledge, the only person I know
24 who could have done it was Yossi.

25 Q So when you testified this morning about Yossi, that's an

Nussbaum - Cross - Schafhauser

1 assumption based on your understanding as to his technical
2 ability?

3 A Technical ability. He's the only one who would want to
4 do it.

5 Q Did he -- did he tell you at any point in time subsequent
6 to this event apparently occurring, did he tell you that he
7 did it?

8 A I don't recall.

9 THE COURT: Excuse me, sir, in the back? Sir, if
10 you are going to make a telephone call, please go outside
11 fully from the courtroom.

12 Q Actually, Mr. Goldfarb just reminded me. I have another
13 question seeing him. I wanted to ask you about something that
14 came up at the very end. Mr. Nelkin asked you, if I recall,
15 about when you first appeared in this courtroom. Do you
16 recall a hearing -- well, do you recall a hearing at which you
17 went with Mr. Goldfarb together to the hearing?

18 A Yeah, wasn't that in February?

19 Q Well, I can't answer. I'm not the witness, but I will
20 ask the next question.

21 A I believe I remember the day. It was sometime in
22 February.

23 Q Well, the next question is this. Do you recall a
24 hearing -- do you recall meeting Michelle Sekowski, my former
25 colleague?

Nussbaum - Cross - Schafhauser

1 A She was here.

2 Q She was at that hearing?

3 A Yes.

4 Q Okay. Do you recall a gentleman by the name of David
5 King from my office?

6 A There was another gentleman there. I don't know if that
7 was his name, but --

8 Q And do you recall at the first time you were there, was I
9 present at that hearing?

10 A No.

11 Q I was not present?

12 A Correct.

13 Q Now, and do you remember that at that hearing, a number
14 of agreements between the parties were placed on the record?

15 A Well, I wasn't really paying attention to the specifics
16 of the proceedings, but --

17 Q I will move on. The record will be what the record is.
18 But this is my question. If a transcript were to demonstrate
19 that the only hearing at which --

20 THE COURT: Move on. I get it.

21 MR. SCHAFHAUSER: Okay, very well. I will move on.

22 Q Let me ask you, Mr. Nussbaum, to turn to, in the smaller
23 booklet, to Exhibit D20. You were asked by counsel about the
24 dates on which Launch commenced. First of all, do you
25 recognize D20?

Nussbaum - Cross - Schafhauser

1 A I do.

2 Q And mintspec@gmail.com, whose e-mailed address is that?

3 A That's Yossi Rogosnitzky.

4 Q I assume bennuss@gmail.com, that's you, correct?

5 A That's me, yes.

6 Q And then when Mr. Rogosnitzky is saying, "Please go
7 through every aspect of program again," what program is he
8 referring to?

9 A Launch.

10 Q That's the Launch program? And was that done -- this is
11 the Two Rivers Launch program that you are talking about here?

12 A Yes.

13 Q Okay. Now, in connection with doing services for Two
14 Rivers, how frequently did you interact with the plaintiff in
15 this case?

16 A It depends. When they first came to when they were
17 onsite; when I went there, a little more. Basically when I
18 went onsite, it wasn't that often except when they moved and
19 everything had to be set up, so that was more often. But
20 other than that, when I went onsite, sometimes he would call
21 me. He would text me a lot.

22 Q And a gentleman by the name of Vincent Papa, do you
23 recognize that name?

24 A Yes, I do.

25 Q How frequently did you -- withdrawn.

Nussbaum - Cross - Schafhauser

1 What did you understand Mr. Papa's role to be at Two
2 Rivers?

3 A He took care of the financials.

4 Q And how frequently did you interact with Mr. Papa while
5 you worked for Two Rivers?

6 A Probably a few times a week, I mean, not physically,
7 because I wasn't there on location, but he would call me.

8 Q And what about Mr. Koenig? Do you recognize Mayer
9 Koenig's name?

10 A Yes, I do.

11 Q How frequently did you interact with Mr. Koenig?

12 A Not very frequently at all.

13 Q Flip over to D21.

14 Again, the first sentence about "installing the
15 program on the computer," we are again talking about Launch?

16 A Yes.

17 Q Okay. Now, at this point in time, May 2013, what were
18 the uses and degree of access that was available for Launch?

19 A Well, it was just, they were just entering preliminary
20 data just trying to get the program going. It wasn't actually
21 producing checks, any of that, payroll or any of that. It was
22 still being built.

23 Q So let me go back a step. Before Launch was being used,
24 what program, if any, do you know that Two Rivers was using?

25 A I know they had onsite QuickBooks, and also they brought

Nussbaum - Cross - Schafhauser

1 QuickBooks in. And I know Sonia had corporate checking which
2 really had nothing to do with, which the but I know she used
3 that.

4 Q When you say "corporate check," we have heard about a
5 corporate system. Is that the system?

6 A Yeah, that's the system. I mean --

7 Q And what data was available on the corporate system or
8 corporate checking, to your knowledge?

9 A I assume, I mean, as far as I understood then, accounts
10 payable.

11 Q And when -- well, did there come a point in time when the
12 corporate system was discontinued in use?

13 A I believe, I don't know exact dates, but I believe the
14 Launch started being fully used in October 2013.

15 Q And when Launch became fully in use in October 2013, what
16 happened with the corporate system?

17 A Well, it still existed. It wasn't being used. It just
18 sat there on the computer.

19 Q Was any data from the corporate system transferred?

20 A Yes, but not right away because it was be ordeal to
21 transfer data from one database to another. Yossi I believe
22 did it in November time. He made an attempt to transfer
23 everything in.

24 Q When you say "made an attempt" --

25 A Well, he transferred the old data. You are going to get

Nussbaum - Cross - Schafhauser

1 some things that end up repeating. It's just what happened
2 when you transfer things from a database. The names are not
3 exact. The computer doesn't know it's the same thing, might
4 create double entries, so --

5 Q So the data that was on the corporate system you
6 understand was transferred under the Launch system?

7 A Right.

8 Q There about October, November 2013?

9 A Right.

10 Q Okay. Now, when the Launch system became fully
11 operational, could you please describe the functions that were
12 available in Launch.

13 A You had the vendors, accounts payable, print checks. You
14 pulled the data from the time clock. You printed the payroll
15 taxes, printed out the payroll checks. It was a full
16 accounting system.

17 Q And Mr. Nelkin showed you an exhibit which I would ask
18 you to turn to. It's in the bigger book, Mr. Nussbaum. It's
19 Exhibit 35 in plaintiff's binder. Are you there?

20 A Yes.

21 Q Okay. You prepared this, correct?

22 A I entered in these people. I don't recognize all the
23 names.

24 Q And if I heard you correctly, you did this on your own
25 volition without input from Mr. Friedman, right?

Nussbaum - Cross - Schafhauser

1 A Correct.

2 Q I want to talk about access to the data on Launch. The
3 people on this sheet of paper, Exhibit 35, what level of
4 access did each of these people have?

5 A Well, there's different, I mean, level of access; in what
6 sense?

7 Q Well, was there a -- was there -- let me try it this way.

8 THE COURT: Why don't you go through them name by
9 name and tell me what each person on that list could do or
10 couldn't do in that system.

11 THE WITNESS: They are all names. It just repeats.

12 THE COURT: Identify them as people so that I know
13 who could do what.

14 THE WITNESS: Okay.

15 A Friedman says exactly "director," Friedman. That gives
16 you ability to produce to make transactions. Sales manager
17 gives you --

18 Q Can I stop you; I apologize. When you say "make
19 transactions," what specifically are you referring to?

20 A Any time you have to actually enter any, has to do the
21 payroll, Mr. Friedman, in order to finalize the payroll, you
22 need the ability to create transaction because it creates
23 payroll transaction.

24 Q Very well. Please proceed. So next one is Cindy Jones?

25 A Right. Sales manager just gives you, you can see

Nussbaum - Cross - Schafhauser

1 everything, but it gives you only a type of leave, if I
2 remember correctly, just to enter in receipts or invoices.
3 That's all sales manager.

4 THE COURT: Speak into the microphone.

5 THE WITNESS: Okay.

6 A That's sales manager. Executive director is the same, if
7 you need ability to make transactions.

8 Q The Court asked for a name, so you are referring to --

9 A Sonia Rivera.

10 Q Right.

11 A Right.

12 Q Okay.

13 A Then it says "executive director," Sylvia.

14 Q No, no, I'm sorry. Let me keep -- oh, yeah, right,
15 Sylvia.

16 A Okay, which is the same, although she never, I never had
17 to log in.

18 THE COURT: Just so I understand this document,
19 Sylvia and Sonia had the same access to the authorizations.

20 THE WITNESS: Whenever you have to produce
21 transactions --

22 THE COURT: I want to make sure I understand the
23 document.

24 THE WITNESS: Right. It's a bookkeeper access.

25 THE COURT: The document suggests that Sylvia and

Nussbaum - Cross - Schafhauser

1 Sonia --

2 THE WITNESS: Right.

3 THE COURT: -- had equivalent access and
4 authorization?

5 THE WITNESS: Ability in the program. That doesn't
6 mean they had ability to log into the program.

7 THE COURT: I understand.

8 THE WITNESS: Okay.

9 THE COURT: I understand the question that I'm
10 asking.

11 THE WITNESS: Yes.

12 THE COURT: Go ahead.

13 BY MR. SCHAFHAUSER:

14 Q Mr. Nussbaum, can I interject a question as well. When I
15 use the word "access," and maybe I tripping you up, I'm
16 talking about can everyone on this sheet of paper eyeball the
17 same things on the screen? And then we will get to what they
18 can do with that data.

19 But the first question is, can everyone on this
20 sheet of paper when they log on to Launch, eyeball the same
21 data? Or if not, please tell me.

22 A Assuming they have the ability to log onto Launch.

23 Q Assuming they have the ability to log onto Launch,
24 everyone on the sheet of paper can eyeball the same
25 information?

Nussbaum - Cross - Schafhauser

1 A Yes, if it has the same name, yes.

2 Q So next question, the functionality is different based on
3 their role; is that correct?

4 A Correct.

5 Q So let's keep going.

6 A But --

7 Q I'm sorry; go ahead. I didn't mean to interrupt.

8 A The same role name has the same access capabilities
9 meaning there's, for example, payroll was the only one that's
10 different because that one you just see the payroll.

11 Q All right. So the payroll, to be specific, there is an
12 Isaac Bendkowski is payroll, right?

13 A Right, which I believe he was operated after this picture
14 was taken.

15 Q And there's another one, Criseidy Molina is also payroll?

16 A Right. She used to give the payroll sheets to
17 Mr. Friedman and tell him exactly who was on the floor.

18 Q So those two people had a lower --

19 A They can just see the timesheets, basically.

20 THE COURT: You need to stop interrupting, sir.

21 THE WITNESS: Oh.

22 THE COURT: Finish your question.

23 MR. SCHAFHAUSER: Thank you.

24 Q They had a lower level of access than everybody else on
25 the sheet of paper, yes?

Nussbaum - Cross - Schafhauser

1 A Correct.

2 Q With the exception of those two people, everyone else had
3 equal access? Do I have that right?

4 A Well, sales manager couldn't see the banking data, but
5 financial manager could. I don't really know if there's any
6 difference between financial manager and director. I don't
7 believe there is.

8 Q All right. Let me focus you back, then, on where I think
9 you were, which is Sylvia Ezell. Next name is Vincent Papa.
10 What functions could he perform based on his, quote, financial
11 manager role in the Launch?

12 A Well, he gets access to all the data in there, to view
13 it, open it, do the banking reports, look at the bank records,
14 recreation, accounts payable, accounts receivable, everything.

15 Q All right. Next name, Eugene Schreiber, I see he's a
16 director?

17 A I don't believe there's any difference between financial
18 manager and director.

19 Q You preempted my question, but that's fine. So he had
20 the same level of access as Vincent Papa?

21 A Yes.

22 Q Even though the roles are different?

23 A Right. I think he used to copy them off QuickBooks, but
24 I think when he set up access, it's exactly the same.

25 Q Okay. Next -- next --

Nussbaum - Cross - Schafhauser

1 THE COURT: Sorry, does anyone know what that sound
2 is?

3 MR. NELKIN: Sounds like it's coming from the
4 speaker.

5 THE COURT: If you have an electronic device down at
6 the table, please turn it off.

7 Q The next person on the list is Steven Schreiber and he's
8 a financial manager on this sheet of paper, right?

9 A Yes.

10 Q Now, what level of access does Steven Schreiber have as
11 financial manager?

12 A He had access to all the information in the program.

13 Q So just so I get it straight, he had the same level of
14 access as Mr. Papa, correct, all of the information on the
15 program?

16 A Correct, correct.

17 Q And is it also correct that Eugene Schreiber, albeit
18 designated as a director, also had full access to all the
19 information on the program?

20 A Correct.

21 Q Okay. Next one is Mr. Koenig. What level of access did
22 Mr. Koenig have?

23 A Here it says "director."

24 Q Okay. And was -- did he also have full access or some
25 lesser degree of access?

Nussbaum - Cross - Schafhauser

1 A It's the same, director. Director is a director.

2 Q Okay. Let me try again. Did Mr. Koenig in his capacity
3 on this sheet of paper as a director have full access to the
4 information that existed at the time on the Launch?

5 A Yes.

6 Q Okay. Now, your understanding from Mr. Rogosnitzky the
7 other day on Thursday or Friday is that upon the reinstitution
8 of Launch, the people that you just mentioned had full access
9 to the information on the Launch as of the time that you put
10 this sheet of paper together will have full access to the
11 information on the Launch, correct?

12 A Yes, assuming that they -- I mean, Cindy doesn't exist
13 anymore, but --

14 Q Well, I'm not --

15 A The one, right.

16 Q Not Cindy. I was referring to --

17 A The ones that are still alive.

18 Q Very well. Now, now, at some point in time, you
19 mentioned that QuickBooks was instituted as well, right?

20 A The QuickBooks Online that existed before I came, before
21 I started working for the company. And then they bought it
22 later, I believe it was in June 2013 they bought QuickBooks
23 Enterprise.

24 Q When you say "they," who was the one who bought --

25 A Actually, I believe it was Vince Papa actually purchased

Nussbaum - Cross - Schafhauser

1 it.

2 Q And what was the purpose of him buying QuickBooks
3 Enterprise, if you know?

4 A I believe it was like a stopgap because 'til the Launch
5 didn't come online until October and it was being built. So
6 he wanted something to have through those next three or four
7 months. And then they used it afterwards, but that's why
8 originally I believe they bought it.

9 Q Do you have an understanding as to -- well, is there a
10 difference between QuickBooks Enterprise and what is commonly
11 referred to QuickBooks or is that the same?

12 A QuickBooks has different levels. There's QuickBooks
13 Online which is extremely weak as an accounting program.
14 There's Basic QuickBooks which people use for personal.
15 There's the Pro version. I believe there's also a Premiere
16 version which really has to do with how many licenses you
17 have. And then there's QuickBooks Online, QuickBooks
18 Enterprise which has all these permissions capabilities that
19 you don't have in regular QuickBooks.

20 Q Okay. You stopped working for Two Rivers in
21 October 2015, right?

22 A Correct.

23 Q Okay. As of the time that you stopped working for Two
24 Rivers, was Two Rivers using a QuickBooks package system? I'm
25 not a tech guy, but --

Nussbaum - Cross - Schafhauser

1 A They were still using QuickBooks, QuickBooks Enterprise.

2 Q Okay. And who was responsible for maintaining that
3 system?

4 A Vince.

5 Q Vince Papa?

6 A The actual, you know, the data in the program and
7 everything, yeah.

8 Q Did he ask you to help with the QuickBooks Enterprise
9 program?

10 A I did the install. I set up a file share.

11 Q You set up the file share? When did you do that?

12 A For the company program when they bought it. I think it
13 was June 2014, 2013, I believe.

14 Q So let me see if I understand. When you left there was a
15 Launch program and there was a QuickBooks Enterprise program,
16 correct?

17 A Correct.

18 Q And what was the interrelationship, if any, that you
19 understood with respect to those two programs?

20 A They weren't technically connected at all. As far as I
21 know, they were entering data into both.

22 Q Who -- did anyone ever take the data from the Two
23 Rivers -- I'm sorry, from the Launch system to the QuickBooks
24 Enterprise system?

25 A I wouldn't know.

Nussbaum - Cross - Schafhauser

1 Q You don't know? Did anyone ever indicate to you -- did
2 ever anyone ever tell that you the data had been transferred
3 from Launch to QuickBooks Enterprise?

4 A Well, no, but QuickBooks Enterprise was being used before
5 Launch, so really it would have gone the other way. It would
6 have gone from QuickBooks Enterprise into Launch.

7 Q Did you ever hear about a reconciliation that was
8 attempted between the information that existed on Launch and
9 the information that existed on QuickBooks Enterprise?

10 A It was extended. Vince used to ask me to call to call
11 him.

12 Q And what is it that Vince told you about the
13 reconciliation?

14 A Well, he told me he's having some problems and I should
15 get Yossi on the phone and call him, which I did.

16 Q And did you learn about the results of that
17 reconciliation at any point in time?

18 A Not directly, but Yossi was upset that Vince didn't like
19 his program. They had some kind of argument. I don't know
20 exactly what it was about.

21 Q Well, could you take a look at, please, at D30. In D30,
22 this is an e-mail from Mr. Papa, there's a reference to, "The
23 bank rep does work for June. There was a difference of \$100
24 which Sonia traced to a bank there."

25 Well, you can read the rest of it. I won't read it

Nussbaum - Cross - Schafhauser

1 into the record. My question to you is, did you ever hear
2 about a bank reconciliation that was conducted and that was
3 either within \$100 or, in fact, reconciled?

4 A I know Yossi called me he was explaining. He said
5 everything works perfectly and Vince doesn't understand how to
6 do things. But I mean, I don't know the document. I can't go
7 through details.

8 Q Very well. Now, you were asked about an exhibit a few
9 numbers before this one, Exhibit D24. Could you flip back,
10 Mr. Nussbaum, please, to Exhibit D24. And my question to you
11 is, was there ever a time where Mr. Schreiber asked you to
12 help him access Launch while you were still employed by Two
13 Rivers and you were unable -- I'm sorry -- and you were unable
14 to help him to access Launch?

15 A I don't believe so. If I couldn't help him, then I would
16 call Yossi and have him help him.

17 Q And while your work at Two Rivers, did Mr. Schreiber or
18 did Mr. Koenig or did Mr. Papa complain to you about the level
19 of access that they had to the Launch program when it was
20 operated?

21 A No, Vince never complained. This is the only e-mail that
22 I ever got. There must have been some issue that I fixed or
23 Yossi fixed, but --

24 Q Now, you were asked some questions about actually, the
25 back and forth in October of 2015 about Launch. So I wanted

Nussbaum - Cross - Schafhauser

1 to ask you some questions about that as well. Let me do this.
2 Let's go to, we can look at Exhibit D26 for starters. D26,
3 first of all, do you recognize that e-mail?

4 A Yes.

5 Q Okay. And this is an e-mail from Mr. Koenig asking you
6 for the server password. Do you see that?

7 A Yes.

8 Q And when you received the e-mail and the request for the
9 server password, what do you understand him to be requesting?

10 A The administrative password to the domain.

11 Q Now, Mr. Nelkin asked you a series of questions about you
12 providing the password on October 7th, I believe it was. I
13 would like you to turn to the last -- actually, it's the fifth
14 page of this set of e-mails, Mr. Nussbaum. And at the top of
15 the page, you see where it says "coffee 12"?

16 A "Coffee one two," yeah.

17 Q "Coffee one two," what is that password? What is that?

18 A That was the password that I thought I remembered it was.

19 Q And that's the administrative password?

20 A Well, it was actually left off a digit which I provided
21 afterwards or before.

22 THE COURT: I'm sorry, are you on 24 or some other?

23 MR. SCHAFHAUSER: I'm sorry, Your Honor, it's
24 Exhibit 26.

25 THE WITNESS: 26.

Nussbaum - Cross - Schafhauser

1 MR. SCHAFHAUSER: I jumped around a little bit.

2 THE COURT: Yeah, yeah, I fell behind.

3 MR. SCHAFHAUSER: It's the fifth page of 26, Your
4 Honor. It's the 23rd.

5 THE COURT: Yes, I see it.

6 BY MR. SCHAFHAUSER:

7 Q Let me start the question over again, Mr. Nussbaum. Does
8 that refresh your recollection that you actually gave the
9 password to Mr. Koenig on September 30, 2015?

10 A I thought I did.

11 Q When you say you thought you did, do you have any reason
12 to doubt that this is an accurate e-mail?

13 A Well, I thought I gave it and they say if I handed it
14 didn't work, but I believe I had given the right password.

15 Q Well, in fact, that wasn't the first time you gave the
16 password; is that correct?

17 A Possible.

18 Q Well, take a look back at D25. Do you recognize this
19 e-mail dated December 11, 2014?

20 A Yes.

21 Q Okay. And Mr. Papa is asking you, "Is it coffee 12 with
22 a number" --

23 A 12 and a dollar sign, one, two, X, yes.

24 Q Do you remember that?

25 A Yes.

Nussbaum - Cross - Schafhauser

1 Q And do you remember being asked whether that was the
2 password for the system, right?

3 A Right.

4 Q And take a look at the next e-mail. And you say "yes" on
5 December 12th of 2014, right?

6 A Yes.

7 Q Okay. And then Mr. Papa says, "Did not work" in the next
8 e-mail. And then he says, "Now it did," right?

9 A He must have typed it in wrong.

10 Q So does that refresh your recollection that Vincent Papa
11 had the administrative password that you provided him at least
12 as of December 11, 2014?

13 A Yes.

14 Q Okay. And then we just established that you gave
15 Mr. Koenig the same password on September 30, 2015, correct?

16 A I left off a digit, but yeah.

17 Q Okay.

18 THE COURT: Does that make a difference when you are
19 using the password?

20 THE WITNESS: I didn't realize it until he came back
21 and told me that it didn't work.

22 Q And then you gave the password to Mr. Schreiber on
23 October 7, 2015, correct?

24 A Correct.

25 Q Now, I'm sorry, that's D76. If you wanted to just

Nussbaum - Cross - Schafhauser

1 turn -- I'm sorry, P76, P76, the second page, if you turn to
2 P76. I think I misspoke, so let me do it again. You actually
3 gave Mr. Koenig the password on October 7th. I think I said
4 "Mr. Schreiber." It's Mr. Koenig to whom you gave the
5 password on October 7th, correct?

6 A Yes.

7 Q Okay. Now, after this case commenced and after whatever
8 the date of the hearing was that you attended, do you remember
9 being asked to provide a password for the Two Rivers
10 information?

11 A No.

12 Q Okay. Well, do you recall submitting an initial
13 affidavit in this case?

14 A Vaguely remember putting in a declaration, yes.

15 Q Let me move on.

16 THE COURT: Why don't you move on to the next area.
17 I'm sure one of the your colleagues will help you out.

18 MR. SCHAFHAUSER: Thank you. That's exactly what I
19 will do.

20 Q All right. So let me go back to -- let me go back --
21 thank you -- let me go back to another topic. Log Me In, you
22 were asked about Log Me In. So I'm clear, someone who uses
23 Log Me In views information remotely on another computer; is
24 that right?

25 A Right.

Nussbaum - Cross - Schafhauser

1 Q Does the person who has the Log Me In function have an
2 ability to transfer that information to the original computer?

3 A Only if you pay for what's called Log Me In Central and
4 Pro, which I didn't have.

5 Q Okay. So that was going to be my question. Did any of
6 the persons that are parties to this case, the defendants, the
7 plaintiff, Mr. Friedman, did any of those people have the --
8 putting aside their skill level, do they have on their
9 computers the technical ability to use the Log Me In function
10 to transfer data remotely?

11 A Not that I had set up.

12 Q And that would have had to have been a separate program
13 that someone would set up, yes?

14 A If you pay for a different level, yes, there's Log Me In
15 Central and Pro which has the ability, but it's quite
16 expensive. They didn't have it.

17 Q And so far as you understand, that separate program was
18 never purchased or installed?

19 A Correct.

20 Q So, so far as you understand, no one who had the Log Me
21 In function could do anything with that function except view
22 remotely information that existed remotely?

23 A Or work on that computer, but remains on that computer
24 that you are working on.

25 THE COURT: Wait, I don't understand. So if you are

Nussbaum - Cross - Schafhauser

1 using Log Me In -- wait, hear the question. If you use Log Me
2 In to remotely access the computer somewhere else, the
3 computer -- sitting at the computer where you are using Log Me
4 In, you can't download information?

5 THE WITNESS: I mean, you have to pay for --

6 THE COURT: Right. I have a VPN.

7 THE WITNESS: VPN actually connects you to the
8 network.

9 THE COURT: I see. So if you are using Log Me In --

10 THE WITNESS: Yes.

11 THE COURT: -- you can't download to the computer
12 that you are on --

13 THE WITNESS: Right.

14 THE COURT: -- information that you are accessing?

15 THE WITNESS: Correct, correct.

16 THE COURT: Can you cut and paste it?

17 THE WITNESS: It doesn't -- it doesn't cut and
18 paste. I mean, you can take a screenshot of the picture with
19 your camera, but --

20 THE COURT: All right. So, but you are not actually
21 able to manipulate the information? You can just look at it?

22 THE WITNESS: Unless you pay for the Log Me In,
23 correct.

24 THE COURT: On that less expensive version?

25 THE WITNESS: Right.

Nussbaum - Cross - Schafhauser

1 THE COURT: You can't manipulate the data in any
2 way? You can only look at it?

3 THE WITNESS: You can work on it. The manipulation
4 is being done on the remote computer.

5 THE COURT: Okay. Go ahead.

6 MR. SCHAFHAUSER: Thank you.

7 BY MR. SCHAFHAUSER:

8 Q Mr. Nussbaum, I want to crystalize. Assume for the
9 moment that Mr. Friedman is technically proficient in every
10 way. With the Log Me In program with the functions that you
11 knew to exist, he could not, no matter how technically
12 proficient, manipulate data remotely on his computer, correct?

13 A On his computer he's sitting in front of?

14 Q Yes.

15 A Correct.

16 THE COURT: Any removal of information would have to
17 be from the computer you are look into?

18 THE WITNESS: You would have to.

19 Q Okay, very well. All right, let's take a look at, if you
20 would, please, at Exhibit D85, which I think you were asked
21 about by Mr. Nelkin.

22 A P85?

23 Q I'm sorry, P; forgive me, P85. I wanted to ask you to
24 turn to the third page of P85 which has a description of --
25 well, first of all before you get to it, you prepared this

Nussbaum - Cross - Schafhauser

1 page, right?

2 A Correct.

3 Q And generally, I'm not going to ask you to go through
4 item by item, but generally is it fair to state that this was
5 intended to be your summary of the work you did for Two Rivers
6 during the period in question?

7 A Correct.

8 Q Okay.

9 THE COURT: Can I ask since this is a list from
10 about a two-month period, how do you compile this notice? Do
11 you have notes?

12 THE WITNESS: Used to write every day down on a note
13 then they would type it up.

14 THE COURT: Okay, go ahead.

15 BY MR. SCHAFHAUSER:

16 Q Okay. And again, I promised I wouldn't go through every
17 item because the Court and we all can read what's on there.
18 But could you flip over to, it's another three pages. This is
19 another -- this is another summary for February, March and
20 April of, I take it April 2015, correct, based on what
21 preceded it?

22 A Right, yes.

23 Q And this summary is based on your notes of what you did
24 at the time, right?

25 A Right.

Nussbaum - Cross - Schafhauser

1 Q Okay. Now, I notice it says, "Fixed Vincent as the
2 fourth entry." And then March 18th, it says, "Fix Vincent
3 laptop." And then under April 2nd, it said, "Fixed Vince's."

4 What is that all about? What did you do on those
5 occasions for Mr. Papa?

6 A He had some issue with his computer and I don't remember
7 offhand exactly what it was then. It had to do with Launch.
8 Might have been to generally viewing the computer. I can't --
9 I can't tell you for sure.

10 Q And the reference to Vince's laptop, did he use a laptop
11 for Two Rivers work?

12 A He had a laptop, yes.

13 Q He had a laptop? And did he have that laptop at the time
14 you left the employ of Two Rivers?

15 A I believe so.

16 Q And what work did he do, to your knowledge, on the
17 laptop?

18 A I believe he used it to log into his computer in again
19 Log Me In. He also used it, I know he used it in the place
20 because I once had to set him up on the network. So what
21 exactly he did, I can't, you know, I can't say, but I know
22 whatever he asked me, so.

23 THE COURT: Okay. I think we will leave it there
24 for the evening and we will reconvene at 9:30. Have a good
25 evening everybody.

(Time noted: 5:01 p.m.)

(Proceedings adjourned as set forth above.)

I N D E X

WITNESS		PAGE
BENZION NUSSBAUM		
DIRECT EXAMINATION	BY MR. NELKIN	572
CROSS-EXAMINATION	BY MR. SCHAFHAUSER	757

<p>Case 1:15-cv-06861-CBA-JO</p> <p>(Time noted: [1] 786/25 MR. FINKEL: [11] 558/8 558/11 558/16 558/20 558/23 571/25 572/6 572/11 643/9 706/4 744/1 MR. GRANTZ: [2] 688/20 690/22 MR. NELKIN: [38] 557/24 558/2 559/16 561/13 561/16 562/12 562/15 563/9 563/21 564/4 564/16 564/22 565/8 565/11 565/14 566/6 566/16 567/3 567/13 568/9 568/14 568/18 568/23 569/1 569/5 572/17 591/24 605/17 626/1 668/15 689/3 689/14 704/21 734/18 736/19 752/19 756/21 772/2 MR. SCHAFHAUSER: [36] 557/9 557/14 557/16 557/19 558/4 559/1 559/3 559/5 559/9 559/11 559/23 560/10 569/12 569/15 569/24 570/2 570/10 571/3 571/15 591/22 718/8 722/4 722/16 722/20 728/7 728/11 743/25 756/23 756/25 762/20 770/22 778/22 778/25 779/2 781/17 784/5 THE COURT REPORTER: [7] 574/6 627/9 629/18 629/20 631/9 642/7 672/20 THE COURT: [221] THE REPORTER: [2] 604/14 605/9 THE WITNESS: [90] 575/4 575/7 579/2 584/25 585/3 585/5 587/11 592/2 594/9 597/11 598/18 598/22 598/24 601/16 601/18 603/13 604/22 604/24 605/4 607/16 607/19 607/24 611/1 634/20 635/4 637/18 637/20 637/22 638/12 640/17 642/9 642/22 643/1 645/22 662/18 666/18 670/20 679/7 679/9 679/11 679/13 679/17 679/21 689/6 691/17 691/19 691/21 691/24 692/1 692/6 703/10 703/12 703/18 708/13 708/17 713/1 718/10 736/8 741/5 741/7 744/5 744/16 744/20 754/3 754/5 754/9 755/8 767/10 767/13 768/4 768/19 768/23 769/1 769/4 769/7 769/10 770/20 778/24 780/19 783/4 783/6 783/9 783/12 783/14 783/16 783/21 783/24 784/2 784/17 785/11</p> <hr/> <p>\$</p> <p>\$10,000 [7] 584/9 584/11 671/23 701/19 701/22 702/24 703/1 \$100 [2] 776/23 777/3 \$3 [2] 699/11 699/15 \$5,000 [2] 704/10 704/13 \$6,000 [1] 671/3</p> <hr/> <p>'</p> <p>'45.43.1.62.' [1] 757/17 'connect,' [1] 757/17 'remote' [1] 757/15 'start' [1] 757/14 'til [7] 574/12 583/15 627/20 689/8 703/14 752/24 774/4 'W.' [1] 757/18 'Welcome [1] 757/18</p> <hr/> <p>-</p> <p>-- she [1] 615/4 -- you [1] 616/10 -----x [2] 555/2 555/8</p>	<p>Document 329 Filed 11/02/16</p> <p>011952 [1] 622/19 12917</p> <hr/> <p>1</p> <p>1' [1] 757/18 10 [3] 617/23 699/2 732/14 10,000 [2] 671/13 703/3 10,000-dollar [1] 674/3 105 [1] 700/8 1054 [1] 573/5 1099 [4] 587/24 588/3 588/9 588/16 11 [2] 779/19 780/12 110 [2] 593/15 710/23 111 [2] 576/12 576/19 113 [1] 639/2 11:05 [1] 610/13 12 [3] 778/15 779/21 779/23 120 [3] 586/25 671/4 701/15 12140 [3] 672/17 701/24 702/4 123 [1] 682/2 126 [2] 705/24 706/4 127 [2] 722/14 723/5 128 [1] 707/12 129 [1] 708/23 12th [1] 780/5 13 [3] 562/17 562/19 563/6 14th [1] 669/7 15-minute [1] 610/13 165 [1] 556/4 165th Street [1] 576/3 16th [1] 689/20 18th [1] 786/2 19 [2] 686/8 697/7 1:04 [1] 563/7 1st [4] 678/6 680/1 681/17 683/15</p> <hr/> <p>2</p> <p>20 [2] 660/12 709/17 2013 [9] 676/9 698/11 698/14 764/17 765/14 765/15 766/8 773/22 775/13 2014 [11] 627/18 632/24 671/7 676/10 702/2 705/25 716/11 775/13 779/19 780/5 780/12 2015 [13] 633/21 669/7 716/14 717/25 759/25 760/4 760/22 774/21 777/25 779/9 780/15 780/23 785/20 2016 [1] 555/5 2330 [1] 555/20 23rd [1] 779/4 24 [9] 556/2 575/18 576/9 577/24 579/10 579/15 601/12 601/22 778/22 24-hour [1] 735/6 24houroilfuel [1] 720/18 25th [1] 702/10 26 [31] 556/14 580/9 582/3 582/5 583/20 584/1 624/9 624/15 624/16 639/21 639/23 639/25 640/1 653/12 653/16 653/17 667/1 674/10 674/13 674/17 697/17 697/23 706/24 707/3 736/1 736/14 742/16 742/18 778/24 778/25 779/3 26 Flavors [2] 715/14 741/16 2712 [1] 555/21 29th [6] 561/9 563/7 563/9 702/2 702/3 702/6 2:00 [4] 557/5 668/19 668/20 669/2 2nd [6] 681/20 683/10 683/18 753/1 753/3 786/3</p>	<p>Page 234 of 252 PageID #: 12917</p> <p>30 [3] 565/11 779/9 780/15 35 [3] 644/6 766/19 767/3 3600 [1] 671/7 3:30 [1] 722/4</p> <hr/> <p>4</p> <p>44 [1] 643/5 45 [1] 643/19</p> <hr/> <p>5</p> <p>5,000 [1] 671/9 50 [1] 760/18 50.5 [1] 653/7 59th Street [1] 573/5 5:01 [1] 787/1</p> <hr/> <p>6</p> <p>600 [1] 671/11 6th [5] 688/16 689/6 716/14 717/25 718/1</p> <hr/> <p>7</p> <p>71 [1] 680/24 718-613-2330 [1] 555/20 718-804-2712 [1] 555/21 74 [4] 625/25 626/1 626/2 626/6 76 [1] 689/16 79 [1] 674/18 7:52 [1] 706/7 7:52 p.m [1] 705/25 7th [7] 678/6 682/12 683/10 689/8 778/12 781/3 781/5</p> <hr/> <p>8</p> <p>80 [1] 673/1 85 [4] 673/1 674/9 692/15 702/19 8th [3] 560/25 689/21 690/4</p> <hr/> <p>9</p> <p>90 [1] 679/25 92nd [1] 574/23 94 [1] 693/9 9474 [1] 599/18 97 [1] 694/25 973 [1] 594/12 9:30 [2] 555/6 786/24 9:34 [1] 562/20 9th [2] 692/19 705/25</p> <hr/> <p>A</p> <p>a.m [1] 555/6 abilities [1] 760/12 ability [24] 561/19 562/2 562/2 575/4 575/11 606/21 606/25 644/16 645/18 647/2 653/15 704/20 761/2 761/3 767/16 767/22 768/7 769/5 769/6 769/22 769/23 782/2 782/9 782/15 able [15] 604/21 620/19 620/19 647/16 651/7 672/17 676/15 726/25 727/1 729/18 730/2 743/7 751/19 751/21 783/21 about -- can [1] 615/13 absence [1] 565/25 absolutely [2] 592/3 740/7 Academy [2] 606/9 606/10 access [99] 561/12 562/2 562/6 562/10 563/10 563/11 564/2 565/7 571/8 598/16 603/23 604/1 604/1 605/1 606/25 617/7 618/2 618/23 620/14</p>
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[80] 620/14 620/17 620/18 621/4 621/22 644/22 644/23 645/16 648/15 648/16 649/8 652/12 653/15 653/19 655/1 655/3 655/24 677/1 678/23 678/23 678/24 679/1 680/14 680/17 694/4 694/5 694/7 695/10 700/12 705/23 714/7 721/2 730/10 730/13 730/15 732/2 738/6 741/11 741/14 743/13 748/19 748/21 748/23 751/21 757/5 758/7 758/9 758/13 758/18 758/19 758/21 759/3 764/18 767/2 767/4 767/5 768/19 768/24 769/3 769/15 770/8 770/24 771/3 771/12 771/20 771/24 772/10 772/12 772/14 772/18 772/21 772/24 772/25 773/3 773/8 773/10 777/12 777/14 777/19 783/2</p> <p>accessed [3] 601/7 607/3 755/6</p> <p>accesses [3] 580/13 604/14 661/10</p> <p>accessible [2] 584/22 725/20</p> <p>accessing [6] 618/25 619/5 619/19 700/19 757/7 783/14</p> <p>account [35] 585/17 587/16 587/18 608/17 608/17 615/9 615/14 615/15 649/10 649/13 652/10 652/10 663/25 690/21 692/5 694/7 698/13 708/6 708/11 708/15 714/15 714/17 717/8 720/5 720/11 720/20 720/22 720/24 720/25 721/3 721/10 722/12 738/12 744/12 744/13</p> <p>accountant [3] 588/20 588/24 589/3</p> <p>accounting [11] 585/13 608/16 608/16 608/19 624/17 644/9 645/5 677/20 678/3 766/16 774/13</p> <p>accounting -- full [1] 608/16</p> <p>accounts [14] 614/21 635/18 636/3 636/7 649/9 666/25 720/17 738/10 738/11 750/9 765/9 766/13 771/14 771/14</p> <p>accurate [1] 779/12</p> <p>accurately [1] 578/4</p> <p>active [6] 597/19 644/25 645/1 645/3 645/4 721/7</p> <p>actively [4] 720/6 747/8 747/9 747/10</p> <p>actual [22] 582/13 582/14 592/14 600/9 608/6 608/10 626/24 648/7 658/6 658/6 674/1 681/15 681/16 684/19 707/2 711/24 711/25 721/1 734/22 734/24 752/5 775/6</p> <p>actually -- if [1] 616/10</p> <p>ad [3] 704/23 704/25 717/1</p> <p>ad-hoc [1] 717/1</p> <p>add [8] 578/21 584/20 691/5 691/25 692/1 692/13 695/4 695/6</p> <p>added [1] 658/17</p> <p>addition [1] 704/17</p> <p>additional [2] 563/18 565/4</p> <p>additionally [1] 560/21</p> <p>address [15] 573/4 574/22 620/13 652/15 652/16 652/21 652/22 676/18 677/1 677/2 677/3 677/5 722/13 723/5 763/2</p> <p>addresses [1] 652/19</p> <p>adjourned [1] 787/2</p> <p>adjust [4] 645/14 645/17 645/18 645/21</p> <p>adjusted [1] 645/15</p> <p>admin [9] 643/24 645/20 645/23 646/1 646/3 656/19 656/23 686/22 715/25</p>	<p>administration [1] 678/19</p> <p>administrative [6] 600/8 611/23 690/1 778/10 778/13 780/1</p> <p>administrator [14] 563/4 595/7 595/9 597/2 600/16 600/19 603/24 603/25 604/13 605/1 678/11 679/18 686/22 723/23</p> <p>adverse [1] 566/2</p> <p>affidavit [28] 567/7 568/20 592/7 592/17 593/14 593/15 595/14 598/20 598/22 600/3 614/1 614/8 617/24 629/11 633/1 637/17 638/17 638/18 638/25 652/20 710/16 710/24 731/15 740/15 742/2 755/3 755/6 781/13</p> <p>affidavits [3] 572/8 592/8 592/11</p> <p>affirmatively [1] 755/17</p> <p>affirmed [1] 572/21</p> <p>afraid [1] 668/18</p> <p>afternoon [2] 683/1 722/3</p> <p>afterwards [4] 617/2 676/4 774/7 778/21</p> <p>ago [10] 590/4 610/21 659/18 659/22 659/23 669/24 696/6 709/17 711/6 747/23</p> <p>agree [1] 729/20</p> <p>agreement [5] 707/18 707/20 707/24 708/1 708/4</p> <p>agreements [1] 762/14</p> <p>ahead [18] 560/10 565/14 573/15 599/1 601/20 605/16 611/3 637/24 669/4 676/25 679/23 722/9 728/13 757/1 769/12 770/7 784/5 785/14</p> <p>Ahearn [6] 579/8 604/7 609/19 609/22 712/3 742/17</p> <p>aided [1] 555/24</p> <p>aimed [1] 570/12</p> <p>al [1] 555/6</p> <p>albeit [1] 772/17</p> <p>alive [1] 773/17</p> <p>allegedly [1] 707/18</p> <p>allocations [1] 674/20</p> <p>allow [2] 566/8 646/10</p> <p>allowed [2] 758/22 758/23</p> <p>allows [2] 646/8 701/6</p> <p>almost [2] 676/3 687/7</p> <p>alone [2] 618/16 704/13</p> <p>alter [2] 680/11 680/12</p> <p>altered [2] 562/3 636/24</p> <p>America [8] 687/20 688/3 688/9 688/17 689/5 689/11 728/15 728/17</p> <p>America/Los [2] 728/15 728/17</p> <p>amount [10] 586/16 586/19 594/3 608/22 631/6 671/22 673/15 673/16 674/3 701/17</p> <p>amounts [3] 575/14 575/15 671/5</p> <p>Angeles [5] 728/15 728/17 728/20 728/24 729/3</p> <p>angry [1] 729/23</p> <p>answer [36] 570/6 575/1 575/3 575/10 587/10 594/3 603/12 609/18 623/23 624/3 624/13 635/7 637/11 637/13 638/11 638/19 661/7 661/9 665/11 667/11 687/11 689/8 699/22 701/4 708/12 708/16 709/6 719/3 736/12 736/19 737/14 738/5 742/4 752/25 755/8 761/19</p> <p>answered [1] 696/10</p> <p>answering [1] 569/22</p> <p>answers [4] 557/23 604/19 604/20 604/22</p> <p>anticipate [2] 563/19 575/6</p>	<p>AOL [5] 615/9 617/17 661/16 691/9 738/12</p> <p>AOL.com [1] 721/19</p> <p>apologize [3] 618/20 653/21 767/18</p> <p>app [2] 644/5 662/14</p> <p>apparent [1] 759/24</p> <p>APPEARANCES [1] 555/12</p> <p>appeared [1] 761/15</p> <p>apply [2] 618/6 719/21</p> <p>appreciate [1] 757/1</p> <p>appropriate [1] 571/22</p> <p>April [4] 698/11 785/20 785/20 786/3</p> <p>April 2015 [1] 785/20</p> <p>April 2nd [1] 786/3</p> <p>Apropos [1] 572/1</p> <p>archived [2] 660/21 660/23</p> <p>area [1] 781/16</p> <p>arguing [1] 619/11</p> <p>argument [3] 558/13 558/16 776/19</p> <p>arranged [1] 654/7</p> <p>arrow [1] 674/25</p> <p>aside [1] 782/8</p> <p>ask -- sorry [1] 610/11</p> <p>aspect [3] 571/6 571/7 763/7</p> <p>asserted [1] 560/4</p> <p>assertion [1] 564/10</p> <p>assess [1] 746/4</p> <p>assist [3] 608/3 654/24 661/1</p> <p>Assoc [1] 639/6</p> <p>Assoc/Sonia [1] 639/6</p> <p>associated [11] 556/3 575/24 578/13 649/9 717/16 717/17 724/9 735/7 735/8 735/9 735/13</p> <p>Associates [9] 556/5 576/10 577/9 577/10 577/13 577/21 577/25 578/14 667/13</p> <p>assume [43] 564/8 574/3 617/19 619/21 628/23 643/25 648/18 652/2 652/3 655/5 655/7 666/16 666/17 686/5 691/6 691/10 691/15 691/15 691/20 692/12 714/3 717/18 717/21 718/25 723/7 724/8 724/11 724/12 724/20 726/17 726/18 730/6 730/17 737/2 737/22 737/23 740/5 742/10 746/1 747/12 763/4 765/9 784/8</p> <p>assumed [3] 568/20 579/2 579/15</p> <p>assuming [3] 769/22 769/23 773/12</p> <p>assumption [1] 761/1</p> <p>attach [5] 657/11 657/11 657/12 657/19 657/20</p> <p>attached [15] 562/13 596/20 596/20 601/2 657/7 657/8 657/10 657/15 657/15 657/23 658/2 658/18 658/20 667/9 667/14</p> <p>attempt [4] 562/21 562/24 765/22 765/24</p> <p>attempted [1] 776/8</p> <p>attempting [1] 562/25</p> <p>attended [1] 781/8</p> <p>attention [3] 695/25 729/14 762/15</p> <p>attentive [2] 570/25 571/14</p> <p>Atzeret [2] 688/2 688/4</p> <p>August [3] 555/5 560/25 633/21</p> <p>August 8th [1] 560/25</p> <p>authority [1] 646/6</p> <p>authorization [1] 769/4</p> <p>authorizations [1] 768/19</p> <p>authorize [1] 559/13</p> <p>authorized [5] 560/18 567/22 620/16 620/18 630/15</p>
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<p>A</p> <p>Case 1:15-cv-06861-CBA-JO Document 329 Filed 11/02/16 Page 236 of 252 PageID #: 67215</p> <p>automatically [9] 617/14 617/15 620/6 627/5 646/20 661/21 746/9 746/11 746/16</p> <p>available [8] 566/12 570/18 584/24 585/3 758/13 764/18 765/7 766/12</p> <p>Avenue [18] 556/5 565/24 576/5 576/10 577/9 577/10 577/12 577/19 577/21 577/25 578/14 639/5 667/13 667/20 719/20 742/11 742/13 742/18</p> <p>AVERY [1] 556/6</p> <p>avoid [1] 573/14</p> <p>aware [12] 557/12 619/16 634/25 635/11 659/20 659/24 708/9 745/7 745/9 745/11 746/13 752/22</p> <p>aware -- you [1] 619/16</p>	<p>bigger [2] 626/11 766/18</p> <p>bill [25] 585/13 586/2 586/18 627/23 672/13 672/18 672/20 672/25 673/5 673/8 673/11 674/2 674/4 702/16 703/3 703/10 703/13 703/14 703/16 704/3 705/3 717/9 717/11 717/14 721/4</p> <p>billed [1] 576/6</p> <p>billing [3] 749/25 750/19 750/19</p> <p>bills [7] 578/19 578/21 578/23 578/24 587/25 588/14 701/21</p> <p>bin [1] 642/17</p> <p>binder [3] 586/25 728/5 766/19</p> <p>Birnbaum [4] 556/13 582/2 583/7 583/9</p> <p>bit [3] 573/13 690/19 779/1</p> <p>block [2] 727/11 727/13</p> <p>book [1] 766/18</p> <p>bookkeeper [4] 644/13 666/10 729/19 768/24</p> <p>bookkeepers [1] 658/2</p> <p>bookkeeping [2] 658/4 658/6</p> <p>booklet [1] 762/23</p> <p>books [2] 565/1 568/25</p> <p>bothering [2] 678/10 690/7</p> <p>bottom [7] 593/18 626/8 639/14 674/21 691/2 691/3 707/13</p> <p>bought [20] 603/7 603/7 665/18 665/18 666/1 666/6 666/9 666/12 666/13 675/4 676/10 699/6 716/3 716/4 716/6 773/21 773/22 773/24 774/8 775/12</p> <p>bounce [2] 619/25 620/10</p> <p>bounces [2] 619/22 620/8</p> <p>box [4] 580/4 580/5 626/17 757/17</p> <p>box '45.43.1.62.' [1] 757/17</p> <p>boxes [1] 608/5</p> <p>brand [1] 699/4</p> <p>break [7] 605/12 605/17 610/13 667/3 668/17 668/19 722/3</p> <p>bring [7] 586/14 586/14 627/20 631/23 665/23 676/23 676/24</p> <p>Bronx [63] 580/21 580/22 592/21 592/24 613/7 619/7 620/22 621/4 621/6 621/9 621/11 621/20 625/18 626/22 627/15 627/17 627/19 629/6 629/8 629/9 629/14 629/17 630/3 630/6 630/18 632/6 633/9 633/9 633/10 633/16 639/10 640/25 641/5 647/6 647/14 647/15 648/2 651/7 651/12 654/22 656/5 656/24 657/17 663/7 665/14 665/19 665/20 667/18 668/4 695/17 695/19 695/20 698/6 718/8 718/10 731/12 731/21 733/14 733/23 734/2 734/8 756/6 756/7</p> <p>Brooklyn [53] 555/4 573/3 573/4 574/21 586/15 592/21 592/24 596/6 597/6 597/7 606/11 611/4 611/7 611/12 613/8 613/9 613/10 633/22 633/23 633/24 648/14 656/21 658/8 705/10 705/11 705/14 705/16 705/19 706/16 708/6 708/11 708/15 712/6 715/16 718/6 718/13 719/13 719/15 722/14 723/18 731/13 731/24 731/25 732/1 732/12 732/25 738/3 738/23 738/25 745/1 752/9 755/22 756/5</p> <p>brought [15] 560/14 608/4 618/21 627/22 629/10 632/9 632/10 633/11 654/21 658/17 659/8 665/20 665/21 669/18 764/25</p> <p>browser [1] 700/18</p> <p>BRUCE [1] 556/8</p> <p>built [2] 764/22 774/5</p>	<p>bulk [1] 671/24</p> <p>burn [2] 644/26 697/18</p> <p>business [4] 575/1 583/1 583/2 677/20</p> <p>but -- you [1] 619/24</p> <p>button [1] 757/15</p> <p>buy [7] 660/10 671/16 676/7 696/18 696/25 697/2 697/4</p> <p>buying [4] 675/2 699/14 699/14 774/2</p> <p>C</p> <p>cabinet [3] 756/9 756/12 756/15</p> <p>cabinets [4] 756/4 756/5 756/7 756/18</p> <p>cable [4] 580/25 646/11 675/10 677/12</p> <p>Cafe [1] 599/18</p> <p>cafeteria [1] 610/6</p> <p>calculating [1] 750/3</p> <p>calendar [1] 688/19</p> <p>camera [2] 712/8 783/19</p> <p>cameras [1] 712/7</p> <p>capabilities [3] 624/21 770/8 774/18</p> <p>capability [1] 663/24</p> <p>capacity [1] 773/2</p> <p>capital [1] 757/18</p> <p>card [10] 665/25 666/1 666/2 666/7 666/8 671/20 672/6 674/20 717/9 717/11</p> <p>cards [1] 666/3</p> <p>careful [2] 570/16 570/23</p> <p>CAROL [1] 555/14</p> <p>carry [1] 696/20</p> <p>case [20] 569/12 569/21 570/8 570/10 570/11 618/3 627/4 631/7 669/12 669/18 715/5 724/1 751/18 752/23 753/2 753/4 763/15 781/7 781/13 782/6</p> <p>cash [18] 575/13 575/15 585/15 672/7 672/8 673/16 699/15 703/4 703/8 703/9 703/15 703/15 703/17 704/23 705/2 705/11 705/14 717/5</p> <p>cached [2] 717/6 717/6</p> <p>caused [1] 760/21</p> <p>CCNA [1] 589/16</p> <p>cease [1] 725/10</p> <p>celebrate [2] 687/20 688/3</p> <p>cellphone [1] 622/23</p> <p>Center [2] 699/6 699/7</p> <p>Central [2] 782/3 782/15</p> <p>certain [4] 560/4 566/7 567/16 657/19</p> <p>certainly [4] 557/15 559/2 561/2 570/24</p> <p>certification [2] 589/17 589/18</p> <p>chain [2] 563/5 682/5</p> <p>chance [2] 564/24 566/9</p> <p>change [11] 563/2 577/16 578/1 590/8 606/24 606/25 619/24 676/2 730/5 730/7 730/17</p> <p>changed [3] 561/13 640/9 730/1</p> <p>changes [3] 619/23 630/15 630/16</p> <p>changing [1] 578/6</p> <p>characterizing [1] 744/10</p> <p>charge [2] 573/19 578/18</p> <p>charged [3] 673/15 699/9 750/4</p> <p>charities [1] 739/22</p> <p>Chase [1] 717/13</p> <p>check [64] 575/13 577/20 577/23 578/12 585/15 585/16 585/20 586/2 586/6 586/8 586/13 586/16 586/23 587/3 587/4 587/9 587/11 587/13 593/5 593/7 609/7 613/24 614/1 616/13 616/15 635/17 636/6 643/25 651/5 651/8 651/12 651/14 651/15 651/16 671/7 672/17 676/12 701/16 701/24 702/4</p>
<p>B</p> <p>back-and-forth [1] 689/20</p> <p>backed [9] 564/2 649/5 693/17 693/19 693/19 693/20 693/22 693/23 743/17</p> <p>background [3] 589/19 659/2 700/23</p> <p>backing [1] 649/1</p> <p>backup [12] 626/23 632/25 633/11 634/4 634/8 648/9 648/10 693/13 743/6 743/10 743/12 745/20</p> <p>backups [4] 633/4 634/10 648/5 743/15</p> <p>bad [4] 607/6 660/11 676/4 679/7</p> <p>Bais [5] 591/10 591/11 591/21 591/21 592/2</p> <p>ball [1] 571/1</p> <p>bank [7] 585/17 709/17 717/8 771/13 776/23 776/24 777/2</p> <p>banking [3] 589/12 771/4 771/13</p> <p>bar [1] 653/10</p> <p>based [15] 568/20 572/2 586/18 606/25 616/12 624/14 649/21 676/18 729/5 758/23 761/1 770/2 771/10 785/20 785/23</p> <p>basic [6] 607/13 677/18 677/22 679/3 740/18 774/14</p> <p>basis [7] 563/8 586/16 637/5 704/23 704/24 708/3 717/1</p> <p>batch [1] 638/24</p> <p>batteries [1] 660/11</p> <p>battery [4] 660/2 660/3 660/11 660/14</p> <p>beans [6] 648/14 648/21 706/16 708/6 708/11 708/15</p> <p>became [2] 765/15 766/10</p> <p>becomes [1] 700/23</p> <p>becoming [1] 707/7</p> <p>begin [1] 590/1</p> <p>beginning [3] 676/3 688/9 716/9</p> <p>behalf [4] 560/4 560/18 590/17 730/25</p> <p>belong [1] 665/7</p> <p>belonged [3] 631/23 632/10 722/13</p> <p>belongs [1] 659/8</p> <p>below [1] 562/21</p> <p>Bendkowski [1] 770/12</p> <p>benefit [1] 567/11</p> <p>bennuss [1] 763/4</p> <p>Benzion [3] 572/18 572/20 573/1</p> <p>BERGSON [1] 556/10</p> <p>besides -- did [1] 616/21</p> <p>best [4] 555/16 575/4 575/10 636/17</p> <p>beverage [1] 583/14</p> <p>Beverages [1] 556/13</p> <p>Beverly [3] 574/23 722/14 723/5</p> <p>beyond [1] 687/25</p> <p>big [1] 607/17</p>		

<p>check... [24] 702/6 702/17 702/22 703/18 703/19 703/20 704/13 717/11 717/13 717/14 737/7 737/9 737/18 738/15 740/9 740/10 740/17 748/15 750/23 751/12 751/14 751/16 751/19 765/4 checked [5] 592/21 593/12 601/19 702/21 740/13 checking [4] 750/10 750/19 765/1 765/8 checks [20] 575/15 575/16 575/17 585/17 587/1 587/15 608/18 648/10 671/5 671/5 698/13 704/17 704/19 716/25 717/3 717/5 737/14 764/21 766/13 766/15 choose [1] 757/19 chooses [1] 710/9 chose [1] 612/1 Cindy [5] 601/24 729/22 767/24 773/12 773/16 Cipher [1] 636/8 circumscribe [1] 570/17 circumscribing [1] 572/2 circumstances [2] 563/12 678/5 city [1] 728/20 CIVIL [1] 555/9 claim [1] 703/25 claiming [1] 679/1 claims [1] 753/5 clean [2] 672/16 674/7 clear [10] 575/2 604/17 610/25 619/8 635/7 635/9 669/22 680/20 736/8 781/22 clearly [4] 572/8 573/12 574/8 694/10 click [6] 658/23 661/23 695/4 695/6 735/6 757/16 clicking [1] 757/14 client [22] 560/18 611/9 615/6 615/15 616/1 617/5 617/10 624/13 700/17 710/13 710/14 710/14 712/12 712/12 712/12 712/13 712/13 712/13 712/20 712/20 712/21 750/13 client's [2] 570/7 571/8 clients [7] 560/4 572/3 670/8 670/10 670/17 738/16 738/16 clock [6] 640/16 640/17 645/16 719/5 719/6 766/14 close [4] 586/22 594/15 647/21 701/18 closer [2] 654/9 722/4 cloud [10] 647/18 647/20 647/22 647/25 648/4 648/5 649/21 693/23 693/24 744/20 cloud-based [1] 649/21 clue [2] 760/9 760/11 Co [1] 555/18 coffee [40] 555/16 556/15 556/17 583/19 583/20 640/3 640/4 640/7 640/8 641/15 657/6 659/3 674/21 675/1 675/2 675/20 693/20 693/22 694/8 694/11 694/11 694/14 698/10 718/14 718/15 718/22 723/19 730/14 735/21 735/22 735/25 736/11 736/14 737/6 737/13 741/17 778/15 778/16 778/17 779/21 colleague [1] 761/25 colleagues [1] 781/17 collectively [1] 563/16 college [2] 589/22 589/24 column [1] 644/24 combined [1] 584/14</p>	<p>coming [3] 644/2 754/24 772/3 commands [1] 725/6 commenced [2] 762/24 781/7 commonly [1] 774/10 communicate [4] 622/15 677/13 686/3 686/4 communicated [3] 638/16 677/15 686/1 communicating [1] 622/13 communication [1] 566/19 communications [5] 558/10 558/21 566/24 568/4 638/20 commuter [1] 655/8 companies [55] 574/5 574/10 583/21 599/25 600/1 600/21 600/24 601/3 611/17 613/23 624/8 624/10 624/11 629/22 631/3 631/4 648/4 656/6 656/10 656/12 675/11 715/10 727/24 730/25 734/21 735/1 735/2 735/3 735/4 735/5 735/15 735/17 735/20 735/21 735/22 735/25 737/4 737/5 737/6 737/22 738/2 738/4 739/17 740/3 741/11 741/14 744/25 745/6 745/19 745/23 750/5 752/3 752/4 752/16 755/15 companies' [2] 680/21 717/2 company [35] 567/8 576/9 578/6 578/11 579/14 581/16 581/18 588/5 603/20 640/6 656/8 678/15 679/4 679/20 706/19 709/4 712/8 735/18 736/11 737/3 737/10 739/13 739/19 740/1 741/20 741/24 743/3 743/9 743/17 743/22 744/17 744/18 750/10 773/21 775/12 company's [2] 575/17 743/6 compensated [4] 573/17 590/20 590/22 592/10 compensation [1] 672/24 competent [2] 734/16 735/19 compile [1] 785/10 complain [1] 777/18 complained [1] 777/21 complaint [2] 572/5 572/13 complete [3] 560/9 585/5 743/15 completely [1] 706/15 compliance [1] 558/14 complied [4] 557/16 557/18 566/16 570/19 complimenting [1] 760/12 comply [2] 558/15 564/13 comprehensive [1] 608/20 computer [357] computer-aided [1] 555/24 computers [185] concerned [1] 558/22 concerning [1] 572/3 concerns [1] 571/19 conclusively [2] 564/11 564/19 conditioned [1] 562/4 conducted [1] 777/2 conference [1] 560/1 confirm [1] 759/10 connect [20] 562/22 578/2 580/22 580/25 581/3 581/20 632/15 632/16 632/16 632/17 632/17 647/3 647/9 647/12 647/12 647/16 655/12 657/22 657/25 749/16 connected [19] 581/1 581/2 581/4 599/14 629/2 629/23 629/24 631/22 631/24 633/13 634/17 667/18 690/22 694/12 711/1 734/25 748/24 749/4 775/20</p>	<p>connecting [2] 580/16 625/7 connection [20] 590/11 592/3 607/1 607/6 625/5 625/10 625/12 625/23 626/12 626/13 626/20 630/8 636/18 669/11 675/24 730/22 749/15 749/15 757/14 763/13 connection' [1] 757/15 connections [3] 608/9 608/9 630/7 connects [2] 649/4 783/7 consider [1] 571/22 considerable [1] 608/22 constantly [2] 696/18 696/18 consult [4] 645/6 662/25 663/4 753/12 consultant [1] 563/23 consulted [1] 645/10 cont'd [1] 747/1 contact [2] 563/4 623/18 contempt [1] 558/8 continue [5] 610/16 653/23 684/14 684/17 746/15 continued [11] 556/1 602/3 620/7 624/24 647/6 650/9 668/21 669/5 713/3 714/1 746/17 continuing [1] 569/20 contract [1] 573/11 contractor [3] 573/23 573/24 678/17 control [12] 563/12 563/13 565/18 565/19 567/18 608/12 656/19 656/23 675/16 707/18 741/25 742/3 controlled [3] 605/24 606/6 606/7 controls [8] 647/11 647/11 655/23 657/23 679/19 742/6 743/11 743/14 convenient [4] 610/12 662/9 662/14 700/17 conveniently [1] 662/7 conversation [4] 569/24 707/16 707/21 754/13 convince [2] 661/13 661/24 copied [10] 607/22 681/4 682/6 686/11 686/13 695/14 698/3 724/20 724/21 742/25 copies [2] 666/11 743/19 copy [25] 585/13 588/16 607/17 607/18 607/19 607/22 607/23 631/15 666/14 666/14 673/21 685/2 685/11 685/16 695/15 695/24 696/21 697/11 724/25 725/1 725/2 725/3 725/4 725/7 771/23 copying [3] 608/3 685/5 685/13 cord [1] 677/11 corner [5] 599/5 599/6 637/12 637/23 748/7 Corp [10] 555/19 556/2 556/4 556/4 556/4 574/24 575/24 576/1 576/3 601/22 corporate [27] 567/16 574/25 575/9 577/14 595/20 597/5 606/1 606/14 635/20 638/5 641/1 664/25 710/22 711/8 735/16 738/4 750/10 750/19 765/1 765/4 765/5 765/7 765/8 765/12 765/16 765/19 766/5 corporate's [1] 606/15 correct [82] 568/14 584/17 584/18 590/18 592/8 596/12 606/17 611/15 618/5 620/3 620/5 620/14 621/16 621/19 622/6 622/8 625/8 628/9 628/15 629/3 629/16 632/8 635/19 639/7 640/2 642/23 643/2 644/19 651/3 651/23 657/17 661/22 665/16 668/12 677/18 680/22 692/7 693/25 694/24 721/8 724/22 733/19 734/14 749/3 749/6</p>
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<p>Case 1:15-cv-06861-CBA-JO Document 328 Filed 11/02/16 Page 238 of 252 PageID #: 17521</p> <p>correct... [37] 755/16 757/24 758/14 758/17 758/19 758/24 758/25 762/12 763/4 766/21 767/1 770/3 770/4 771/1 772/14 772/16 772/16 772/17 772/20 773/11 774/22 775/16 775/17 779/16 780/15 780/23 780/24 781/5 782/19 783/15 783/15 783/23 784/12 784/15 785/2 785/7 785/20 correctly [4] 628/17 668/14 766/24 768/2 counsel [4] 676/19 722/18 757/10 762/23 counsel's [1] 757/5 count [1] 657/14 counted [1] 603/15 couple [8] 557/2 578/20 585/22 601/15 606/3 670/8 728/5 752/21 course [2] 557/20 755/18 courses [2] 589/16 589/21 Court's [1] 564/13 courthouse [2] 555/3 557/11 courtroom [2] 761/11 761/15 covered [2] 572/13 652/20 CPA [1] 556/9 Crazy [4] 556/14 583/16 583/18 583/18 create [17] 597/9 597/16 597/17 609/9 609/11 642/14 644/12 644/13 644/16 658/22 714/8 714/8 720/20 727/11 727/13 766/4 767/22 created [3] 578/16 715/5 749/7 creates [8] 609/13 609/14 642/6 642/6 642/11 642/18 725/4 767/22 creates a [1] 609/13 credit [11] 665/24 666/1 666/2 666/3 666/7 666/7 671/20 672/6 674/20 717/9 717/11 criminal [1] 680/21 Criseidy [1] 770/15 cross [2] 702/19 757/3 CROSS-EXAMINATION [1] 757/3 crystalize [1] 784/8 CSR [1] 555/20 cumbersome [2] 605/15 661/12 Cups [4] 556/14 583/16 583/18 583/18 curious [1] 638/10 custody [5] 565/18 565/19 567/18 741/25 742/3 customer [9] 750/17 751/5 751/9 751/10 751/14 751/16 751/18 752/1 752/15 customers [2] 750/16 751/8 cut [3] 566/13 783/16 783/17</p>	<p>765/19 765/21 765/25 766/5 766/14 767/2 769/18 769/21 771/4 771/12 775/6 775/21 775/22 776/2 782/10 784/1 784/12 database [49] 605/2 605/20 605/21 605/24 605/24 606/21 606/22 607/12 607/14 608/10 634/7 640/4 640/10 640/12 643/23 647/25 648/7 657/22 684/19 684/23 686/16 686/20 686/24 724/6 724/9 724/12 724/12 724/18 724/19 725/3 725/23 725/24 725/25 726/17 726/24 749/19 749/23 750/15 751/3 751/4 751/6 751/7 751/11 751/11 751/22 759/17 759/19 765/21 766/2 databases [9] 658/3 694/13 694/16 694/17 694/18 694/19 724/7 724/16 726/5 date [18] 577/3 593/3 632/24 650/7 669/14 669/22 669/24 682/11 683/5 683/7 683/9 692/24 699/18 701/24 728/14 734/1 747/23 781/8 dated [2] 702/6 779/19 dates [3] 671/5 762/24 765/13 dating [3] 577/1 577/2 578/9 DAVID [5] 555/17 556/2 731/4 731/7 762/4 deal [5] 625/9 648/12 650/1 717/2 751/24 dealing [2] 678/2 693/12 dealt [5] 583/24 608/5 662/2 693/3 752/12 December [4] 669/7 779/19 780/5 780/12 December 11 [2] 779/19 780/12 December 12th [1] 780/5 December 14th [1] 669/7 decide [2] 571/15 751/17 decided [1] 630/25 decisions [1] 729/20 declaration [3] 576/16 637/5 781/14 decommission [2] 577/17 577/17 default [1] 664/5 defendant [4] 574/4 590/2 594/17 610/19 defendant's [3] 563/8 624/14 728/5 defendants [39] 555/7 555/15 555/17 556/2 556/6 556/8 556/10 556/12 556/16 560/19 561/9 563/24 565/19 565/22 566/24 567/18 570/19 573/20 573/25 574/2 579/8 584/14 584/15 590/6 590/17 592/1 608/12 636/20 638/21 662/23 662/25 669/23 670/13 670/20 670/22 704/11 709/24 736/21 782/6 defense [2] 563/15 569/9 definitely [1] 694/21 degree [2] 764/18 772/25 delete [3] 646/25 747/6 747/8 deleted [4] 616/16 636/24 746/2 746/5 deletes [2] 747/9 747/10 deliver [1] 673/12 delivered [3] 581/11 675/8 755/1 delivering [1] 581/13 Delivery [2] 556/2 601/22 Dell [5] 603/4 603/6 603/8 603/9 660/7 delve [1] 565/5 demonstrate [4] 564/4 564/5 570/12 762/18 deny [1] 568/21 derive [1] 670/12</p>	<p>descending [1] 646/5 describ [3] 599/20 743/22 754/7 754/11 766/11 described [1] 755/21 describes [1] 570/6 describing [1] 570/22 description [1] 784/24 descriptions [1] 567/5 designate [1] 657/12 designated [2] 563/24 772/18 designer [2] 693/2 693/3 designing [1] 693/4 desk [9] 599/21 599/21 600/4 600/25 601/16 613/12 654/3 654/12 732/4 desks [1] 654/7 desktop [26] 613/17 641/6 641/11 641/12 641/19 641/23 641/23 641/25 642/5 642/10 642/13 642/16 642/19 647/23 653/18 697/19 700/12 723/9 723/12 732/9 732/20 733/4 736/6 736/13 757/14 757/15 desktops [1] 736/3 destroy [2] 751/6 751/11 detail [3] 557/7 730/11 743/22 details [1] 777/7 determination [2] 571/20 571/21 determinations [1] 563/20 determine [3] 597/25 672/18 705/1 determined [1] 607/8 determines [1] 644/10 determining [2] 567/1 614/15 device [7] 635/12 662/18 663/20 664/16 726/16 727/14 772/5 devices [9] 564/1 564/6 565/20 632/25 634/5 655/24 676/20 709/23 728/1 Devine [2] 556/9 556/9 difference [7] 686/6 687/22 771/6 771/17 774/10 776/23 780/18 different [25] 563/16 563/24 569/18 569/23 580/3 580/4 580/4 580/4 624/2 642/21 644/8 698/23 726/23 729/10 730/10 730/25 735/4 750/15 754/20 767/5 770/2 770/10 771/22 774/12 782/14 differently [1] 668/2 difficult [1] 569/23 difficulties [1] 569/20 digit [2] 778/20 780/16 Dina [1] 589/14 direct [5] 572/23 625/1 669/5 714/1 743/19 directed [2] 560/5 560/17 direction [1] 560/12 directive [2] 560/17 561/5 directives [1] 566/16 directly [8] 571/22 621/17 666/9 686/3 723/24 724/2 754/19 776/18 director [17] 644/15 644/15 644/16 644/18 646/8 767/15 768/6 768/13 771/6 771/16 771/18 772/18 772/23 773/1 773/1 773/1 773/3 disable [1] 645/3 disabled [1] 645/1 disagree [1] 729/20 disagreement [1] 689/6 disappear [1] 747/5 disappeared [1] 568/19 discard [1] 696/8 disconnect [1] 569/23 disconnected [1] 598/3</p>
<p>D</p> <p>D-I-N-A [1] 589/14 D20 [2] 762/23 762/25 D21 [1] 764/13 D22 [2] 728/6 729/17 D24 [3] 730/12 777/9 777/10 D25 [1] 779/18 D26 [2] 778/2 778/2 D30 [2] 776/21 776/21 D76 [1] 780/25 D85 [1] 784/20 DANELCZYK [1] 555/20 dash [1] 710/12 data [41] 608/22 608/23 617/16 618/3 620/13 628/7 635/12 636/13 636/25 640/11 651/24 657/23 707/19 719/7 743/7 743/10 743/10 746/9 746/16 747/2 747/3 760/22 764/20 765/7</p>		

<p> Case 1:15-cv-06861-CBA-JO Document 325 Filed 11/02/16 Page 239 of 252 PageID #: 15532 discontinued [1] 765/12 discovered [1] 567/19 discovery [3] 564/14 570/17 570/22 discuss [4] 563/24 681/13 709/8 731/10 discussing [1] 681/15 discussion [1] 619/15 discussions [2] 682/18 684/6 disk [2] 697/6 697/8 dispatch [1] 711/23 dispute [1] 569/11 dissembling [1] 557/23 disseminate [2] 571/10 571/11 distribution [2] 556/14 583/14 DISTRICT [2] 555/1 555/1 Divine [5] 567/21 567/25 568/1 568/9 581/8 docket [1] 560/15 document [9] 576/13 576/19 614/14 616/11 673/2 768/18 768/23 768/25 777/6 documents [12] 564/23 564/25 565/1 567/21 568/12 576/23 579/2 614/10 614/13 614/16 615/4 615/5 dollar [2] 674/3 779/23 dollars [5] 671/1 671/2 704/18 705/5 705/7 domain [81] 577/11 577/15 577/16 578/1 578/2 578/6 580/23 600/9 600/11 600/11 628/15 628/20 628/21 651/19 651/19 652/15 655/12 655/13 655/17 655/18 655/22 655/23 655/24 656/3 656/5 656/8 656/9 656/10 656/12 656/17 656/18 656/19 656/22 656/25 657/4 657/7 657/8 657/10 657/12 657/13 657/15 657/15 657/21 657/23 657/24 657/25 658/8 658/14 658/17 658/19 658/21 658/22 658/23 658/24 658/25 658/25 659/4 659/5 667/9 667/10 667/13 667/13 667/14 667/18 667/19 668/12 668/13 675/16 710/12 711/1 716/20 716/20 716/21 716/24 717/19 717/22 717/22 719/20 742/22 742/25 778/10 domains [1] 596/21 done [28] 573/20 573/22 576/7 578/17 580/10 580/10 581/6 581/8 582/5 583/2 583/13 593/12 637/3 664/9 676/14 677/9 677/9 690/21 700/16 724/24 736/15 750/19 751/6 752/21 757/14 760/24 763/10 784/4 door [5] 654/9 654/10 654/11 654/13 739/16 dormed [1] 623/15 Dorothy [1] 601/24 double [1] 766/4 doubt [3] 634/17 727/12 779/12 dough [1] 656/22 Dov [10] 595/24 597/7 718/5 718/6 720/2 720/3 720/3 732/22 745/20 748/21 down [20] 593/11 596/11 603/11 604/18 604/20 604/24 605/14 612/3 642/9 653/1 660/13 665/9 723/14 738/9 740/14 740/19 740/21 741/1 772/5 785/12 download [8] 615/7 615/16 616/10 634/18 700/17 701/4 783/4 783/11 download a [1] 616/10 </p>	<p> downstairs [2] 612/18 658/15 drafts [2] 594/2 594/5 drive [9] 618/15 633/12 633/13 634/11 634/15 634/22 698/15 743/18 749/21 drives [10] 627/7 627/21 633/6 633/8 634/4 696/20 699/1 699/4 699/15 745/5 Dropbox [9] 648/11 649/6 649/8 649/10 649/13 649/16 649/19 694/2 694/7 drove [1] 618/15 duly [1] 572/21 duplicate [1] 725/5 E e-mail [20] 612/5 612/6 613/24 614/21 614/25 615/10 615/14 615/15 616/12 622/15 760/17 776/22 777/21 778/3 778/5 778/8 779/12 779/19 780/4 780/8 e-mailed [1] 763/2 e-mails [12] 615/7 615/16 615/19 615/24 616/5 616/8 616/19 617/7 617/8 617/18 617/21 778/14 earliest [1] 717/24 early [3] 593/24 650/8 716/11 earn [2] 670/22 702/24 earned [2] 702/24 704/10 easier [3] 617/9 656/19 656/23 easiest [1] 615/6 easily [1] 651/14 East [1] 574/23 East 92nd [1] 574/23 EASTERN [1] 555/1 ECJ [1] 722/13 edit [1] 729/18 education [1] 591/9 educational [1] 589/19 effort [1] 605/13 EFile [1] 607/25 Egg [1] 665/18 eight [6] 578/18 688/15 701/22 702/20 703/2 703/3 either [8] 574/14 582/4 635/12 682/1 695/14 701/1 734/4 777/3 EJ [1] 739/14 EJ1 [2] 712/5 712/9 EJ2 [2] 712/6 712/10 EJ3 [1] 712/10 electronic [2] 740/4 772/5 electronically [2] 743/6 743/9 elicited [1] 565/21 eliminate [2] 725/16 725/20 elsewhere [2] 561/25 756/19 email [52] 555/21 562/19 563/5 563/6 626/3 648/14 648/14 648/22 661/10 666/22 666/24 680/17 681/8 681/15 681/16 681/21 682/5 682/25 686/11 689/17 689/19 690/21 691/2 691/3 691/6 691/8 693/10 693/12 705/23 706/16 706/20 708/10 708/14 708/24 720/17 720/19 721/1 721/1 721/3 721/3 721/7 721/10 721/11 721/18 721/20 721/21 729/9 729/10 729/15 729/21 738/10 738/16 emailed [1] 673/13 emails [12] 568/3 638/23 661/8 661/8 666/13 666/23 690/7 692/5 708/7 709/1 709/4 741/1 EMIL [27] 555/6 555/15 595/24 597/7 711/12 711/13 711/14 714/3 714/4 714/8 714/19 714/19 714/21 714/22 714/25 716/7 716/15 716/22 717/1 </p>	<p> 717/17 717/18 717/20 717/21 717/21 717/23 717/24 722/12 Emil's [4] 674/20 716/1 717/24 722/11 employ [2] 737/4 786/14 employed [7] 573/10 573/25 574/2 589/3 736/21 736/23 777/12 employee [1] 573/22 employees [1] 694/23 employer [2] 737/15 737/19 employment [2] 752/4 752/5 employs [3] 736/23 736/25 737/1 endorsed [1] 587/21 engaging [1] 679/6 English [2] 605/5 605/6 enter [8] 608/23 730/2 732/15 732/16 757/17 757/20 767/20 768/2 entered [3] 557/4 558/6 766/22 entering [3] 729/24 764/19 775/21 Enterprise [12] 773/23 774/3 774/10 774/18 775/1 775/8 775/15 775/24 776/3 776/4 776/6 776/9 entire [2] 679/19 725/19 entities [5] 574/25 577/14 735/16 738/4 739/24 entitled [2] 567/13 571/8 entity [1] 575/9 entries [1] 766/4 entry [3] 560/16 674/21 786/2 environment [1] 642/11 equal [1] 771/3 equipment [1] 664/19 equivalent [1] 769/3 erase [2] 636/12 646/24 error [6] 562/14 562/24 563/1 563/2 626/10 626/14 ESQ [10] 555/13 555/14 555/15 555/17 556/2 556/6 556/8 556/10 556/12 556/16 essentially [2] 566/6 570/13 establish [4] 567/3 567/12 567/12 591/25 established [3] 563/19 621/17 780/14 establishes [1] 564/11 estate [18] 574/17 733/3 733/3 738/1 738/4 739/8 739/11 740/1 740/18 740/19 744/25 745/19 748/20 752/10 752/16 755/22 755/23 755/24 et [1] 555/6 Eugene [6] 665/9 681/3 716/3 716/6 771/15 772/17 evaluated [1] 616/13 evaluating [2] 614/8 636/6 evening [2] 786/24 786/25 event [2] 687/18 761/6 events [2] 572/4 572/12 ever -- did [1] 606/24 evidence [8] 564/12 564/18 725/13 725/16 725/22 726/1 726/4 738/18 EVIDENTIARY [1] 555/9 exact [8] 593/3 594/3 632/24 687/8 687/9 747/23 765/13 766/3 exactly [24] 562/17 581/15 590/3 590/13 593/14 597/23 615/13 682/1 683/9 683/14 687/8 726/10 726/22 753/5 754/11 758/10 759/4 767/15 770/17 771/24 776/20 781/18 786/7 786/21 examination [6] 571/14 572/23 625/1 669/5 714/1 757/3 examined [1] 572/21 example [4] 565/10 694/25 714/18 770/9 </p>
---	---	---

examples [1] 565/3
except [10] 583/25 600/24 646/10
677/18 694/5 694/16 748/19 751/3
763/18 782/21
exception [1] 771/2
exchange [3] 626/3 706/15 707/13
exchanges [1] 630/11
Excuse [6] 557/22 631/10 635/6 676/19
679/15 761/9
execute [1] 562/11
executive [6] 644/15 644/15 644/18
646/8 768/6 768/13
exhausted [1] 704/20
exhibit [45] 562/13 562/19 563/6 576/12
586/25 593/15 625/20 625/25 626/1
626/6 639/2 643/5 643/19 644/6 667/1
667/3 667/15 671/4 673/1 674/18
679/25 680/24 682/2 686/8 689/16
692/15 693/9 694/25 700/8 701/15
705/24 706/4 707/12 708/23 710/23
762/23 766/17 766/19 767/3 777/8
777/9 777/10 778/2 778/24 784/20
Exhibit 105 [1] 700/8
Exhibit 110 [2] 593/15 710/23
Exhibit 111 [1] 576/12
Exhibit 113 [1] 639/2
Exhibit 120 [3] 586/25 671/4 701/15
Exhibit 123 [1] 682/2
Exhibit 126 [2] 705/24 706/4
Exhibit 129 [1] 708/23
Exhibit 13 [2] 562/19 563/6
Exhibit 19 [1] 686/8
Exhibit 26 [2] 667/1 778/24
Exhibit 35 [3] 644/6 766/19 767/3
Exhibit 44 [1] 643/5
Exhibit 45 [1] 643/19
Exhibit 71 [1] 680/24
Exhibit 74 [3] 625/25 626/1 626/6
Exhibit 76 [1] 689/16
Exhibit 79 [1] 674/18
Exhibit 85 [2] 673/1 692/15
Exhibit 90 [1] 679/25
Exhibit 94 [1] 693/9
Exhibit 97 [1] 694/25
Exhibit D20 [1] 762/23
Exhibit D24 [2] 777/9 777/10
Exhibit D26 [1] 778/2
Exhibit D85 [1] 784/20
exhibits [4] 557/8 702/19 728/5 757/10
Exhibits 85 [1] 702/19
exist [5] 725/11 743/3 758/16 773/12
784/11
existed [13] 564/6 577/12 606/3 699/21
710/25 711/11 712/18 765/17 773/4
773/20 776/8 776/9 782/22
existence [1] 564/5
existing [1] 570/20
exists [1] 743/1
exorbitant [1] 631/6
expect [3] 590/22 712/20 726/4
expenditures [1] 703/25
expenses [1] 729/24
expensive [2] 782/16 783/24
expert [1] 631/18
expertise [2] 675/12 675/15
explain [9] 577/2 580/24 615/13 625/9
627/1 717/25 718/2 724/1 724/3
explaining [1] 777/4

explore [5] 567/25 567/25 568/5 568/15
568/24
explored [1] 574/9
extend [1] 687/25
extended [1] 776/10
extent [3] 561/12 564/18 570/19
external [1] 745/9
extremely [3] 727/6 760/16 774/13
eye [1] 571/1
eyeball [3] 769/16 769/20 769/24
Ezell [14] 556/6 579/11 609/1 615/2
615/3 644/18 658/1 661/15 736/21
737/17 738/6 747/14 756/12 771/9
Ezell's [4] 637/12 638/2 727/16 754/22

F

face [1] 595/15
faced [1] 654/10
facilitate [1] 759/3
facilities [1] 731/12
facility [2] 676/6 677/4
fact [5] 568/6 684/7 685/12 777/3
779/15
facts [1] 563/19
fail [9] 562/24 627/12 628/4 628/6
628/11 652/6 724/17 759/17 759/20
failed [2] 726/6 726/6
fails [1] 726/19
failure [1] 564/12
fair [1] 785/4
fairness [1] 604/22
familiar [5] 606/1 636/8 636/10 636/12
690/18
family [1] 709/11
far [24] 563/17 576/9 580/7 588/3 588/4
596/4 610/3 613/24 615/1 624/10 630/4
632/20 633/5 647/16 659/15 720/11
738/13 746/2 746/6 750/2 765/9 775/20
782/17 782/20
faster [2] 631/1 631/5
Faulkner [1] 562/19
fax [3] 555/21 593/17 593/19
faxed [7] 593/21 593/21 593/22 593/23
594/1 594/13 594/13
February [9] 669/13 669/14 753/1 753/3
758/12 758/15 761/18 761/22 785/19
February 2nd [2] 753/1 753/3
FedEx [3] 582/19 659/8 659/8
fee [1] 562/5
FELDMAN [1] 556/8
fell [1] 779/2
few [13] 578/19 597/6 598/23 599/21
670/8 670/25 671/2 671/8 705/7 722/6
747/23 764/6 777/8
fiber [1] 630/12
fifth [2] 778/13 779/3
Fifty [1] 652/16
figure [1] 655/15
file [37] 593/23 593/25 594/15 607/17
607/17 607/23 607/24 616/11 616/17
617/2 647/11 678/1 678/2 678/2 678/4
685/2 685/5 685/9 685/11 685/15
685/16 700/20 700/21 701/4 725/3
725/3 725/4 749/7 756/4 756/5 756/7
756/9 756/12 756/15 756/18 775/10
775/11
filed [2] 557/5 572/8
files [13] 616/15 616/15 630/11 630/12
649/15 649/15 726/2 738/22 739/2
746/11 748/11 751/5 756/4

filing [4] 561/7 561/9 572/5 594/8
filter [1] 620/15
finalize [1] 767/21
financial [6] 771/5 771/6 771/10 771/17
772/8 772/11
financials [1] 764/3
fine [2] 558/15 771/19
finish [7] 561/8 589/17 608/25 631/10
665/11 672/21 770/22
FINKEL [7] 556/6 558/13 559/18 560/2
615/23 616/18 754/15
fire [1] 650/5
fired [6] 649/25 650/3 668/10 683/16
683/24 690/13
firewall [13] 582/15 641/19 647/17
651/14 651/15 651/16 663/15 663/16
663/23 664/10 664/12 664/15 664/16
firewalls [1] 664/5
firm [4] 581/25 588/21 588/23 589/5
first [46] 563/3 563/18 566/10 572/16
572/21 577/5 590/1 592/17 592/18
592/18 593/19 595/8 609/24 618/16
623/18 623/22 626/8 626/16 639/5
640/20 640/22 643/12 644/19 652/24
669/22 671/7 673/2 674/21 676/8 682/4
685/17 693/16 728/7 731/2 747/6 747/8
756/23 761/15 762/8 762/24 763/16
764/14 769/19 778/3 779/15 784/25
five [6] 582/20 590/3 623/17 656/21
669/24 696/23
fix [5] 627/25 627/25 644/1 693/2 786/2
fixed [9] 574/19 610/20 627/22 692/18
730/22 777/22 777/23 786/1 786/3
fixing [1] 593/12
flag [1] 683/20
flash [10] 633/8 633/11 634/4 634/11
634/15 634/22 698/15 698/25 699/4
699/14
Flavor [1] 736/14
Flavors [25] 556/14 580/9 582/3 582/5
583/20 584/1 624/9 624/15 624/16
639/22 639/24 639/25 640/1 653/12
653/17 674/10 674/13 674/17 697/17
697/23 706/24 707/4 715/14 736/1
741/16
flip [3] 764/13 777/9 785/18
floor [2] 582/22 770/17
floors [1] 739/21
fluently [1] 605/4
focus [2] 567/2 771/8
folks [3] 557/9 653/21 668/18
follow [1] 561/17
followed [1] 562/21
following [2] 563/1 626/14
follows [2] 572/22 688/1
for the [1] 615/4
forget [1] 602/1
forgive [1] 784/23
form [5] 562/3 570/18 690/23 722/19
755/6
formal [3] 737/15 737/19 752/5
formed [1] 563/8
former [1] 761/24
forms [1] 646/8
forth [4] 689/20 711/10 777/25 787/2
forthwith [1] 566/16
forwarded [1] 638/23
foundation [1] 722/22
four [12] 582/19 582/20 603/5 603/16
603/17 664/21 664/23 667/22 696/23

<p>four... [3] 712/9 745/23 774/6 fourth [2] 701/25 786/2 frame [1] 682/3 frankly [1] 757/10 free [2] 616/1 652/10 frequently [7] 633/16 633/24 763/14 763/25 764/4 764/11 764/12 Friday [8] 557/3 560/25 568/2 593/24 757/25 758/1 758/2 773/7 Friedberg [2] 559/25 739/4 FRIEDMAN [68] 555/6 555/15 560/18 564/7 564/21 567/21 574/3 574/9 583/11 584/5 586/1 586/4 587/20 590/11 590/12 592/1 600/17 603/15 603/20 609/15 611/20 612/6 613/5 623/18 623/22 645/10 646/15 659/12 659/17 660/23 662/21 669/23 670/12 676/22 678/13 679/6 680/7 681/5 699/10 701/16 705/19 706/24 706/25 709/9 711/12 723/4 723/17 736/22 736/23 736/23 736/25 737/2 737/3 742/10 742/13 742/17 747/25 753/17 753/25 756/15 760/6 766/25 767/15 767/15 767/21 770/17 782/7 784/9 Friedman's [27] 567/20 587/16 595/2 599/5 599/7 599/8 599/20 600/13 600/25 611/24 612/20 612/23 612/25 638/8 657/1 657/9 658/15 660/16 661/6 664/24 666/2 666/7 682/13 718/6 727/4 739/19 747/18 friend [4] 591/1 623/7 669/21 709/15 friends [3] 573/18 624/3 709/13 front [15] 573/13 613/12 641/13 700/16 703/1 704/4 705/2 712/5 720/9 732/4 749/20 751/7 751/8 751/22 784/13 Fuel [12] 556/3 556/3 556/3 575/20 575/22 575/24 600/23 711/17 735/7 735/8 735/10 735/13 full [16] 564/12 572/25 581/14 608/16 608/19 638/3 653/8 670/16 740/11 758/8 766/15 772/18 772/24 773/3 773/8 773/10 full-size [1] 581/14 fully [7] 653/7 698/12 701/22 761/11 765/14 765/15 766/10 function [9] 624/7 631/16 632/3 644/13 656/14 782/1 782/9 782/21 782/21 functionality [2] 758/7 770/2 functioning [2] 729/19 743/15 functions [5] 727/18 739/5 766/11 771/10 784/10 Funding [9] 555/18 574/13 743/24 744/9 745/3 755/16 755/21 755/22 755/25 funds [1] 588/7</p>	<p>glanced [3] 681/11 731/25 732/2 gmail [1] 729/2 Document [29] 12524 659/21 720/18 721/14 721/16 763/2 763/4 Goldfarb [4] 591/3 669/16 761/12 761/17 Goldman [4] 588/24 589/8 589/10 589/11 Google [4] 622/24 623/2 653/10 677/5 grant [1] 759/1 GRANTZ [7] 555/17 556/2 559/17 560/2 563/7 731/4 731/7 great [1] 630/13 greater [1] 605/13 Group [1] 555/17 guard [2] 637/13 637/15 guess [23] 563/14 563/17 578/10 580/17 589/7 640/4 640/7 640/25 652/2 687/1 697/5 703/24 706/12 709/14 716/10 717/9 720/3 723/25 730/2 752/1 752/8 752/12 759/8 guy [3] 627/1 733/6 774/25 guys [1] 648/14</p> <p>H</p> <p>half [5] 670/21 670/22 704/5 704/14 730/11 hall [1] 602/2 hand [7] 573/13 591/24 604/20 643/24 666/13 673/12 717/13 handed [2] 585/12 779/13 handle [2] 663/5 677/21 handled [1] 625/5 HANS [1] 555/15 happy [2] 756/24 757/1 harassing [1] 690/5 hard [5] 602/1 617/8 633/6 633/13 745/5 hardship [1] 703/1 hardware [2] 593/9 593/10 hate [1] 563/15 haven't -- we [1] 610/3 head [2] 599/19 721/13 heard [12] 559/6 559/8 560/8 570/5 571/3 574/12 574/14 581/10 583/15 583/17 765/4 766/24 heart [1] 611/19 held [1] 558/7 HELLER [4] 556/12 560/3 731/5 731/8 helpful [3] 566/23 566/25 584/25 herself [2] 589/4 654/4 Hersko [3] 556/11 556/11 581/23 high [2] 589/21 709/18 higher [1] 591/9 highway [1] 676/7 Hills [1] 665/21 hired [1] 590/5 hiring [1] 729/20 historic [1] 635/23 historically [2] 611/13 725/14 hit [5] 660/10 695/6 732/15 732/16 757/17 Hmm [1] 737/25 hoc [3] 704/24 704/25 717/1 Hold [1] 562/18 holds [3] 605/22 749/19 750/15 holiday [10] 687/14 687/16 687/21 687/23 688/9 688/12 688/14 689/3 689/4 689/9 holidays [2] 687/18 687/25 home [2] 573/8 573/9</p>	<p>Honor [27] 557/17 557/20 558/5 558/9 558/17 558/23 559/6 559/17 559/24 560/13 561/14 571/5 571/7 571/16 572/3 572/13 591/23 604/15 688/21 704/22 722/17 728/9 752/20 756/22 756/24 778/23 779/4 Honor's [3] 557/21 560/15 570/7 HONORABLE [1] 555/10 hooked [3] 656/24 657/4 658/13 hoping [1] 565/22 host [3] 700/20 700/21 724/11 hosting [7] 631/3 631/4 648/7 707/17 707/24 708/1 708/3 hour [10] 556/2 575/18 576/9 577/24 579/10 579/15 601/12 601/22 697/8 735/6 hours [5] 578/20 592/23 670/8 686/7 686/7 house [5] 613/13 613/14 613/16 661/1 709/21 housed [1] 625/3 HP [10] 603/4 603/6 603/7 603/10 628/17 628/17 644/3 710/19 711/10 733/22 huge [2] 577/16 578/3 hundred [2] 634/19 705/7 hundred percent [1] 634/19</p> <p>I</p> <p>icon [28] 640/10 641/2 644/21 646/21 646/21 646/24 646/25 647/2 647/4 647/10 647/12 647/23 661/23 695/7 695/13 695/24 696/1 696/2 697/9 697/22 697/25 698/16 733/5 733/8 735/8 740/18 741/19 757/15 icons [13] 614/11 639/23 646/12 646/14 646/19 653/12 697/15 697/18 698/18 733/12 735/5 740/20 740/23 ID [1] 719/7 idea [41] 587/17 588/18 591/12 600/18 606/12 617/12 622/3 622/3 628/24 630/20 640/22 648/21 660/20 660/22 662/5 668/1 696/4 705/15 707/11 711/16 711/17 711/19 711/25 719/1 719/4 721/21 725/17 726/3 726/25 728/18 729/8 738/10 739/2 740/6 741/19 741/21 743/2 755/2 755/23 756/1 756/2 identifiable [1] 609/12 identified [5] 560/23 564/1 611/4 697/18 699/20 identify [4] 727/23 735/18 735/20 767/12 identifying [1] 567/6 idiot [1] 729/24 iDrive [12] 648/11 648/13 743/25 744/12 744/13 744/14 744/15 744/17 744/24 745/1 745/17 745/18 image [3] 559/14 561/11 644/22 imaged [3] 664/22 741/4 745/24 images [6] 558/1 558/2 560/6 560/22 561/3 561/11 imagine [3] 559/20 721/25 740/7 imaging [1] 709/23 IMAP [1] 617/15 immediately [2] 616/16 688/1 important [3] 566/12 566/18 635/6 importantly [2] 561/20 568/5 impossible [2] 662/10 662/11 in, [1] 609/16 Inc [2] 555/16 555/18</p>
<p>G</p> <p>general [2] 678/10 678/18 generally [6] 614/19 630/4 729/9 785/3 785/4 786/8 generates [1] 655/14 Generation [2] 628/18 628/18 generic [2] 597/9 718/15 gentleman [3] 762/4 762/6 763/22 Geoffrey [3] 556/11 556/11 581/23 Gernie [1] 559/25 gist [1] 689/13 given [8] 566/2 585/19 586/20 587/20 666/25 677/2 703/15 779/14 glad [1] 570/15</p>		

included [1] 673/17
 includes [2] 563/6 563/7
 income [3] 670/15 670/16 702/23
 incoming [1] 620/13
 incorrect [1] 562/25
 independent [4] 573/23 573/24 582/12 678/17
 index [1] 702/19
 indicate [1] 776/1
 indicated [1] 572/7
 indicating [1] 562/24
 individual [8] 614/13 614/14 619/25 627/5 633/4 634/7 693/19 727/25
 individually [3] 588/5 588/6 657/25
 inefficient [2] 688/23 691/12
 information [52] 560/20 563/8 565/4 565/25 566/2 566/9 566/21 570/18 577/3 585/3 605/22 618/2 619/3 619/4 622/4 634/15 635/12 647/2 655/21 661/5 663/22 666/15 676/17 694/2 731/10 740/4 742/20 748/16 749/19 750/14 751/5 751/25 752/6 752/14 759/24 769/25 772/12 772/14 772/19 773/4 773/9 773/11 776/8 776/9 781/10 781/23 782/2 782/22 783/4 783/14 783/21 784/16
 INI [4] 647/10 678/2 685/2 685/10
 initial [2] 699/17 781/12
 injunction [4] 752/22 753/4 753/8 758/24
 input [2] 664/16 766/25
 inputted [1] 751/2
 inquire [3] 572/4 734/15 756/23
 inside [2] 620/25 699/7
 install [16] 612/12 612/20 612/21 612/25 613/5 613/14 614/23 634/11 662/17 675/7 675/9 727/7 733/5 733/7 733/8 775/10
 installation [2] 686/10 686/14
 installed [11] 612/10 612/13 613/14 614/21 628/25 646/13 646/14 665/19 677/19 700/24 782/18
 installing [2] 675/8 764/14
 installs [1] 700/22
 instance [5] 563/18 567/19 635/11 637/2 749/2
 instituted [1] 773/19
 instruct [1] 680/9
 instructed [3] 558/1 593/13 695/1
 instructions [12] 559/15 561/17 562/11 562/21 562/22 680/2 680/5 682/14 757/6 758/3 759/4 759/12
 intended [1] 785/5
 intending [1] 561/2
 interact [4] 632/19 763/14 764/4 764/11
 interacted [2] 715/5 715/8
 interaction [1] 707/5
 interface [1] 626/16
 interject [1] 769/14
 internet [19] 578/3 580/10 583/3 607/1 614/24 630/7 630/8 630/12 630/13 632/5 632/12 632/16 634/17 652/22 675/17 675/23 676/4 676/6 676/16
 interrelationship [1] 775/18
 interrupt [4] 610/12 722/2 736/8 770/7
 interrupting [4] 631/25 704/9 735/12 770/20
 Intuit [4] 567/16 567/20 567/22 612/13
 inventory [2] 624/20 649/4

investigate [2] 567/7 625/13
 investors [2] 335/17 574/11
 invoice [3] 585/25 673/17 673/18
 invoiced [1] 750/4
 invoices [4] 585/8 673/19 729/19 768/2
 invoicing [1] 750/1
 involved [7] 582/9 675/16 675/17 707/1 709/23 720/16 727/25
 involvement [2] 760/3 760/7
 involves [2] 675/10 677/20
 involving [4] 576/16 580/11 680/21 686/2
 IP [22] 619/24 620/13 647/9 647/11 652/16 652/16 652/19 652/21 652/21 652/22 653/2 653/3 653/8 653/10 653/11 676/18 677/1 677/2 677/3 677/5 677/5 722/13
 IP6 [2] 639/19 639/19
 iPad [6] 662/8 662/12 662/15 662/21 690/16 691/11
 iPads [1] 690/18
 iPhone [10] 690/14 690/20 690/22 691/7 691/9 691/14 691/24 692/6 692/10 692/11
 iPhones [1] 690/18
 IPs [1] 639/19
 Isaac [1] 770/12
 Israel [11] 623/16 682/22 683/2 686/6 687/20 688/3 688/7 688/11 688/14 689/9 689/11
 issue [13] 565/16 591/24 606/4 627/21 628/11 660/3 723/14 730/22 751/18 759/14 760/19 777/22 786/6
 issues [12] 563/25 569/11 570/4 583/23 584/3 625/5 625/10 625/11 663/6 663/12 692/23 751/24
 item [3] 785/4 785/4 785/17
 itself [2] 664/17 694/6

J

Jack [3] 609/21 609/22 610/23
 Jack's [1] 657/2
 JAMES [1] 555/10
 JAY [1] 555/13
 Jersey [4] 568/6 582/7 623/13 647/15
 Jeryg [4] 555/19 574/24 739/14 744/23
 Jetico [1] 636/10
 Jewish [1] 688/19
 job [5] 577/16 578/3 670/7 670/14 730/4
 John [4] 579/8 609/19 610/7 712/3
 join [3] 658/23 659/1 710/12
 joined [1] 656/3
 Jones [1] 767/24
 Jordan [4] 654/6 654/24 655/6 655/7
 Jordan's [2] 654/22 655/1
 Jorge [3] 556/7 581/6 736/24
 JUDGE [2] 555/10 605/11
 July [8] 561/9 563/7 563/9 633/21 633/21 702/2 702/3 702/6
 July 2015 [1] 633/21
 July 29th [6] 561/9 563/7 563/9 702/2 702/3 702/6
 jumped [1] 779/1
 June [6] 671/11 676/10 702/10 773/22 775/13 776/23
 June 2013 [1] 773/22
 June 25th [1] 702/10
 just -- I [1] 616/23

keep [17] 570/25 571/14 584/23 605/6 611/16 611/18 611/22 611/23 612/5 630/13 666/14 668/19 695/12 696/21 720/25 768/14 770/5
 keeps [5] 608/18 652/2 656/2 729/4 729/4
 Keith [1] 669/16
 kept [8] 630/14 690/7 726/10 748/3 748/4 749/20 750/9 756/1
 Kevin [1] 562/19
 key [2] 732/15 732/16
 keyboard [1] 604/3
 kicks [1] 718/4
 kids [1] 662/2
 King [1] 762/5
 Kippur [1] 718/1
 knowing [2] 738/9 741/1
 knowledge [7] 637/2 728/25 752/3 760/20 760/23 765/8 786/16
 known [2] 591/3 740/19
 knows [2] 760/16 760/18
 Koenig [12] 570/9 764/8 764/11 772/21 772/22 773/2 777/18 778/5 779/9 780/15 781/3 781/4
 Koenig's [1] 764/9

L

lab [2] 658/15 665/9
 lack [1] 722/22
 Lakewood [2] 623/13 623/14
 landline [1] 622/23
 language [1] 605/3
 laptop [17] 610/6 610/10 611/1 659/17 659/18 659/19 659/21 659/25 660/2 660/7 786/3 786/10 786/10 786/12 786/13 786/13 786/17
 large [2] 557/5 568/1
 Larry [2] 604/9 711/21
 Larry's [1] 657/2
 late [3] 557/3 593/25 594/14
 launch [107] 561/12 561/18 561/21 566/21 578/24 606/18 606/20 608/15 608/16 619/17 621/25 622/5 624/18 625/7 625/12 625/18 626/17 626/19 628/1 628/16 639/23 639/25 640/1 640/3 640/8 640/13 642/14 643/7 643/9 643/11 644/21 645/2 646/12 649/5 649/20 666/16 666/17 675/14 683/12 684/15 684/19 693/20 693/22 694/9 694/9 694/23 695/18 698/10 723/15 724/18 730/14 733/10 741/12 741/13 741/14 743/11 757/5 757/7 757/13 757/19 758/4 758/7 758/13 758/18 758/19 758/21 759/3 759/7 759/11 759/15 759/24 760/4 760/8 760/21 762/24 763/9 763/10 763/11 764/15 764/18 764/23 765/14 765/15 766/6 766/10 766/12 767/2 769/20 769/22 769/23 771/11 773/4 773/8 773/9 773/11 774/4 775/15 775/23 776/3 776/5 776/6 776/8 777/12 777/14 777/19 777/25 786/7
 Launch-related [1] 759/24
 launched [1] 736/6
 law [1] 581/25
 Lawrence [1] 604/7
 lawyer [22] 579/4 590/24 590/25 592/14 592/23 593/22 593/23 594/7 594/9 594/9 594/10 594/16 594/19 615/6

<p>Case 1:15-cv-06861-CBA-JO lawyer... [8] 615/18 638/14 638/16 638/22 669/17 681/12 738/13 754/14 lawyers [8] 575/2 575/7 731/9 733/17 733/20 734/8 734/9 734/12 learn [6] 611/24 661/24 661/25 670/3 670/6 776/16 learned [1] 661/14 learning [1] 670/7 least [5] 612/2 623/17 704/14 705/6 780/11 leave [5] 617/10 710/10 724/23 768/1 786/23 leaves [1] 623/1 led [1] 586/4 left [10] 557/11 581/21 597/6 617/5 638/14 742/22 775/14 778/20 780/16 786/14 legal [1] 742/4 legalese [1] 594/5 lend [2] 586/5 701/19 lending [1] 701/17 less [5] 586/22 624/19 633/19 634/2 783/24 lesser [1] 772/25 letter [4] 557/7 559/18 559/18 569/17 letters [1] 564/20 level [12] 655/1 760/15 767/3 767/5 770/24 771/20 772/10 772/13 772/21 777/18 782/8 782/14 levels [3] 646/5 646/6 774/12 license [4] 696/25 697/1 697/2 697/4 licenses [1] 774/16 Light [2] 556/4 576/1 likely [2] 565/2 714/4 limited [1] 583/22 LINDA [1] 555/20 LindaDan226 [1] 555/21 line [11] 559/25 577/5 591/23 593/17 593/20 639/14 706/1 728/14 728/21 729/1 729/7 link [2] 580/18 646/22 linked [1] 759/18 list [10] 593/5 600/6 608/25 611/16 624/13 638/13 731/13 767/9 772/7 785/9 listed [4] 591/13 595/10 596/8 657/5 LLC [7] 555/17 555/18 555/19 556/14 556/15 556/17 742/14 load [1] 697/8 loading [1] 678/4 loan [2] 755/25 756/1 loaned [1] 586/19 local [16] 618/24 619/22 620/2 621/1 633/4 634/6 643/22 655/14 664/14 684/18 684/20 716/16 717/17 717/19 717/23 749/9 locally [3] 743/19 749/20 750/12 located [26] 563/11 582/16 606/19 607/4 607/4 607/6 613/18 618/8 618/13 625/16 626/25 627/8 627/10 638/7 647/24 651/6 657/22 663/17 663/19 665/4 677/4 684/18 684/20 697/24 723/8 723/18 location [24] 574/20 582/6 593/4 599/3 606/24 607/9 607/9 607/20 608/11 619/9 619/14 619/14 620/24 621/2 629/7 630/14 633/15 654/1 694/20 698/21 725/3 729/4 729/4 764/7</p>	<p>locations [2] 607/2 698/23 lock [2] 635/24 636/5 locked [3] 599/8 599/10 685/22 log [96] 558/18 562/24 562/25 563/7 595/8 597/10 598/9 598/9 598/12 598/13 598/17 601/5 606/21 607/21 609/8 609/16 609/16 612/15 618/2 620/23 621/25 621/25 622/5 626/13 636/7 640/3 641/5 641/11 642/6 642/15 643/1 643/9 643/11 644/1 645/2 645/3 645/4 645/20 645/22 647/19 647/22 647/22 647/23 651/25 652/1 652/2 655/13 655/20 662/4 662/6 664/10 664/12 664/14 667/16 684/21 697/7 700/23 714/8 714/12 714/16 715/1 715/2 715/3 715/5 715/6 715/17 715/21 720/25 722/12 723/23 725/2 726/2 733/6 757/13 760/16 768/17 769/6 769/20 769/22 769/23 781/21 781/22 781/23 782/1 782/3 782/9 782/14 782/20 783/1 783/1 783/3 783/9 783/22 784/10 786/18 786/19 log in, he [1] 609/16 log-in [15] 618/2 626/13 641/5 641/11 642/15 643/9 643/11 644/1 645/2 645/3 645/4 645/20 647/23 684/21 697/7 log-on [2] 562/24 563/7 log-ons [1] 642/6 logged [26] 595/6 595/7 597/8 600/15 600/16 615/9 639/6 640/25 641/3 641/4 641/16 641/22 641/24 642/10 643/13 644/4 667/20 680/13 691/12 714/22 714/23 715/12 724/2 724/20 733/15 736/13 logging [25] 563/3 609/8 609/15 609/17 621/13 639/8 639/24 640/19 640/24 642/21 643/24 647/18 651/17 651/22 663/24 663/25 664/2 684/24 691/8 691/13 691/17 714/17 722/16 723/4 723/11 login [7] 653/17 655/22 667/7 714/13 714/13 715/4 724/20 LogMeIn [41] 597/8 597/11 597/12 609/11 609/12 612/8 612/9 612/9 612/12 612/21 613/4 620/23 621/1 639/11 641/1 641/24 642/24 652/2 652/6 662/6 662/13 667/21 700/10 700/13 700/15 700/17 700/19 700/20 701/1 701/7 714/11 714/14 715/15 715/19 720/19 720/20 720/22 720/23 720/24 721/2 721/4 logs [7] 597/18 639/21 661/11 661/16 695/7 695/8 723/17 looked [21] 587/2 593/9 593/10 598/6 598/8 598/9 614/7 652/3 657/8 667/15 667/21 681/12 729/16 731/13 732/25 738/25 739/4 740/22 752/13 755/3 755/5 looks [9] 587/5 587/7 639/10 639/21 639/22 642/7 642/11 642/18 643/7 Los [5] 728/15 728/17 728/20 728/24 729/3 lose [4] 646/22 696/9 696/12 696/18 losing [1] 696/13 low [3] 727/6 727/17 760/16 lower [2] 770/18 770/24 lunch [1] 667/3</p> <p>M</p> <p>machine [2] 697/9 718/22</p>	<p>MAGISTRATE [1] 555/10 mail [2] 612/5 612/6 613/24 614/21 614/25 615/10 615/14 615/15 616/12 622/15 661/11 760/17 776/22 777/21 778/3 778/5 778/8 779/12 779/19 780/4 780/8 mailed [3] 592/22 594/4 763/2 mails [12] 615/7 615/16 615/19 615/24 616/5 616/8 616/19 617/7 617/8 617/18 617/21 778/14 main [17] 598/17 609/5 627/12 627/13 627/16 627/16 627/21 628/2 628/3 628/3 628/4 628/8 628/10 628/12 629/9 698/7 726/7 maintaining [1] 775/2 manage [2] 695/4 695/6 management [8] 555/18 555/19 574/16 574/24 597/16 609/10 658/23 722/14 manager [14] 646/9 718/6 729/18 767/16 767/25 768/3 768/6 771/4 771/5 771/6 771/11 771/18 772/8 772/11 manages [3] 656/3 724/6 724/7 manipulate [3] 783/21 784/1 784/12 manipulation [1] 784/3 manned [1] 580/12 manufacturer [1] 603/3 March [6] 627/18 671/9 692/19 702/15 785/19 786/2 March 18th [1] 786/2 March 9th [1] 692/19 match [2] 586/19 641/9 material [7] 560/22 561/23 568/2 651/21 651/22 660/21 660/24 materials [4] 561/1 570/12 760/4 760/8 matter [1] 784/11 matters [3] 560/8 584/1 596/13 MAURICE [1] 556/12 Max [1] 693/4 May 2013 [1] 764/17 Mayer [3] 646/15 681/5 764/8 MB [7] 556/3 556/3 575/20 575/22 599/25 603/21 711/17 MBT [1] 600/10 mean [105] 562/9 576/8 578/7 580/24 583/20 584/8 586/9 588/2 588/10 591/16 593/8 594/6 595/15 597/22 598/2 605/22 606/20 606/20 606/21 610/1 610/2 612/17 613/2 614/12 616/9 618/18 619/2 619/4 623/2 623/23 624/2 624/2 625/11 627/1 631/2 636/14 638/18 639/1 640/10 644/16 645/4 645/12 648/5 649/24 651/4 652/22 652/25 653/2 654/15 654/21 657/5 659/15 659/22 661/7 665/9 666/12 674/5 674/11 674/16 681/11 685/8 690/6 693/6 702/21 702/21 707/1 709/14 710/4 710/6 714/9 714/22 715/2 718/15 723/11 724/11 725/1 725/2 726/22 727/3 728/1 728/19 728/20 730/9 730/10 733/2 734/8 737/12 739/4 739/9 740/7 745/14 748/22 751/2 754/13 760/16 764/6 765/6 765/9 767/5 769/6 770/7 773/12 777/6 783/5 783/18 meaning [4] 563/17 595/6 720/25 770/9 means [5] 566/14 645/1 645/3 675/9 677/24 meant [3] 626/21 690/9 690/10 mechanical [1] 555/23 mechanism [1] 658/20 media [1] 634/16</p>
--	--	---

<p> M meet [4] 623/10 731/6 751/22 753/18 meeting [1] 761/24 meets [1] 652/22 member [2] 742/13 742/17 members [2] 571/11 678/6 memory [3] 657/5 680/25 733/18 mentioned [6] 619/16 677/23 716/25 754/14 773/8 773/19 mess [1] 701/13 message [6] 562/14 563/2 626/10 650/6 690/20 693/16 messing [1] 730/2 met [6] 609/22 609/23 623/4 709/19 731/7 731/8 Michael [4] 556/9 556/9 559/24 581/8 Michelle [1] 761/24 Micro [2] 699/6 699/7 microphone [5] 647/21 686/18 703/12 754/8 768/4 Microsoft [4] 589/18 698/25 724/7 732/14 middle [1] 683/1 might [35] 576/7 584/23 609/7 611/13 616/11 623/2 626/22 635/4 635/4 642/20 660/5 665/21 669/19 675/4 675/8 678/3 689/10 689/10 696/15 712/1 717/21 717/22 719/5 719/7 721/12 748/16 751/8 751/9 751/19 751/25 752/16 752/18 752/21 766/3 786/8 migrated [3] 683/12 684/7 684/25 migrating [1] 683/23 Mike [1] 719/23 mind [3] 557/22 584/24 605/7 mine [4] 587/5 623/7 652/16 669/21 minicomputer [4] 610/5 610/17 610/19 610/25 minimal [1] 566/22 Minspec [1] 681/6 mintspect [1] 763/2 minute [4] 557/3 605/17 610/13 697/23 minutes [4] 660/12 697/7 722/7 752/21 mirror [6] 627/17 630/13 631/9 726/9 726/19 726/21 mirrored [3] 726/11 726/15 726/16 mirroring [10] 626/23 626/24 627/2 627/7 629/4 630/2 631/14 631/17 632/6 698/8 mirrors [2] 627/4 627/6 mischaracterized [1] 744/3 Miss Ezell [4] 658/1 661/15 736/21 738/6 Miss Ezell's [1] 727/16 Miss Rivera [5] 584/1 595/21 658/1 727/21 736/22 Miss Rivera's [1] 653/25 misspoke [1] 781/2 misuse [1] 680/21 MISys [3] 649/1 649/3 649/4 mobile [1] 662/17 model [2] 603/3 660/15 Models [1] 654/20 modify [1] 680/11 Molina [1] 770/15 moment [3] 756/25 760/20 784/9 money [7] 585/19 586/4 586/5 631/6 670/19 702/24 703/20 monitor [4] 603/23 604/1 604/3 604/6 </p>	<p> monitors [2] 748/5 748/7 month [4] 578/20 635/19 670/9 785/10 125/27 monthly [2] 585/10 586/6 months [15] 578/19 578/21 586/3 634/3 671/8 685/23 701/22 702/20 702/21 703/2 703/3 703/4 711/6 747/23 774/7 moot [1] 570/4 morning [6] 557/1 557/5 564/9 728/10 757/4 760/25 most [11] 585/20 587/7 593/11 598/14 611/22 612/13 612/16 663/11 664/5 671/14 705/4 mostly [7] 584/2 585/11 622/16 649/15 661/8 663/11 677/15 motion [1] 570/4 mouth [1] 573/13 move [17] 601/13 607/15 617/13 689/14 692/14 695/24 703/22 704/22 716/9 725/7 725/10 736/18 762/17 762/20 762/21 781/15 781/16 move-in [1] 716/9 moved [21] 620/1 620/21 621/3 621/5 621/8 621/10 621/11 623/16 628/13 629/15 629/24 632/6 636/4 647/6 647/13 648/1 698/21 713/2 716/8 725/8 763/18 moves [2] 621/20 725/9 moving [4] 630/17 630/18 630/21 630/23 Mr. Ahearn [2] 609/22 742/17 Mr. Birnbaum [2] 583/7 583/9 Mr. Divine [3] 567/21 567/25 568/1 Mr. Finkel [4] 558/13 559/18 560/2 754/15 Mr. Friedman [59] 564/7 564/21 567/21 574/9 583/11 584/5 586/1 587/20 590/11 590/12 592/1 600/17 603/15 603/20 609/15 611/20 612/6 613/5 623/18 623/22 645/10 646/15 659/12 659/17 660/23 662/21 669/23 670/12 676/22 678/13 679/6 680/7 681/5 699/10 701/16 705/19 706/24 706/25 709/9 723/4 723/17 736/22 736/23 736/23 737/2 737/3 742/10 742/13 742/17 747/25 753/17 753/25 756/15 760/6 766/25 767/21 770/17 782/7 784/9 Mr. Friedman's [24] 587/16 595/2 599/5 599/7 599/8 599/20 600/13 600/25 611/24 612/20 612/23 612/25 638/8 657/1 657/9 658/15 660/16 661/6 664/24 666/7 682/13 718/6 739/19 747/18 Mr. Goldfarb [3] 591/3 761/12 761/17 Mr. Grantz [3] 559/17 560/2 563/7 Mr. Heller [1] 560/3 Mr. Keith [1] 669/16 Mr. Koenig [11] 570/9 764/8 772/21 772/22 773/2 777/18 778/5 779/9 780/15 781/3 781/4 Mr. Michael [1] 559/24 Mr. Nelkin [9] 563/18 570/5 570/6 572/3 728/8 761/14 766/17 778/11 784/21 Mr. Nussbaum [21] 563/22 565/8 565/9 566/19 566/20 566/25 610/17 669/7 722/11 728/14 730/24 742/3 752/22 757/4 762/22 766/18 769/14 777/10 778/14 779/7 784/8 Mr. Nussbaum's [2] 567/5 567/8 Mr. Papa [14] 625/21 626/3 626/10 707/14 707/16 707/19 707/21 764/4 </p>	<p> 772/14 776/22 777/18 779/21 780/7 780/5 Mr. Papa's [1] 764/1 Mr. Popa [1] 564/25 Mr. Poppa [1] 571/10 Mr. Rogosnitsky [1] 630/18 Mr. Rogosnitzky [19] 563/23 566/19 566/25 623/19 624/4 624/8 626/4 677/14 684/6 686/9 729/13 752/4 758/6 758/8 758/12 759/6 759/15 763/6 773/6 Mr. Rogosnitzky's [1] 630/21 Mr. Salcedo [5] 568/11 572/4 572/7 736/22 737/21 Mr. Schafhauser [6] 557/19 563/6 569/19 622/4 707/14 755/1 Mr. Schreiber [4] 777/11 777/17 780/22 781/4 Mr. Steven [2] 570/8 574/4 Mr. Sylvia's [1] 664/24 Mr. Vince [1] 694/9 Ms. Ezell [4] 615/3 737/17 747/14 756/12 Ms. Ezell's [2] 638/2 754/22 Ms. Rivera [7] 618/13 618/18 646/17 684/17 685/22 686/1 749/4 Ms. Rivera's [6] 618/6 618/8 618/11 620/21 647/4 699/18 Ms. Sonia [1] 618/21 MSC [1] 700/24 multiple [5] 627/4 653/17 732/7 732/8 732/9 must [7] 559/14 563/2 597/10 603/11 759/8 777/22 780/9 MV [1] 600/23 MyTwoRiversCoffee [3] 721/14 721/15 721/16 N name [106] 572/25 577/11 577/15 577/16 577/19 578/1 578/2 578/6 578/13 583/15 583/17 589/13 594/23 594/25 596/3 596/13 597/15 597/17 597/18 601/9 602/1 602/2 603/22 609/2 609/4 609/11 609/20 613/20 626/17 643/8 643/9 643/11 643/12 643/13 643/17 644/7 644/10 655/6 655/19 655/22 658/24 661/17 667/8 667/9 668/1 668/6 668/15 693/4 695/4 695/6 700/21 710/7 710/9 710/11 710/12 710/13 711/1 711/3 711/7 711/18 711/19 712/1 712/11 714/3 714/20 714/21 714/25 715/24 716/21 717/18 718/15 718/16 718/22 719/10 719/11 719/12 720/14 723/6 723/21 724/2 724/8 724/10 727/7 727/9 731/5 735/6 742/21 751/10 757/17 757/20 758/8 758/15 758/16 759/18 762/4 762/7 763/22 763/23 764/9 767/8 767/9 768/8 770/1 770/8 771/9 771/15 name's [1] 562/25 named [2] 628/11 719/1 names [43] 562/23 565/6 566/10 583/6 595/16 595/18 595/23 596/7 596/12 596/24 597/21 597/24 597/25 603/18 604/8 611/5 611/8 611/10 611/14 611/14 611/18 611/19 635/23 636/14 644/20 645/7 655/8 655/15 655/25 668/7 693/3 699/4 700/5 710/3 710/6 710/15 711/24 712/25 717/15 751/11 766/2 766/23 767/11 </p>
---	--	--

<p>N names' [1] 611/18 Napolitano [2] 654/6 654/10 Napolitano's [1] 654/12 near [1] 754/23 necessarily [5] 644/16 685/14 717/4 723/9 723/13 need [41] 563/20 565/11 566/14 567/2 569/9 571/20 588/1 588/2 588/3 597/13 597/17 600/7 600/9 609/9 611/23 631/8 634/18 642/8 642/15 656/18 656/20 656/21 656/22 656/22 658/2 676/19 678/24 678/25 686/14 686/17 700/18 714/15 720/19 736/3 751/22 756/25 757/13 757/16 767/22 768/7 770/20 needed [9] 581/14 585/13 593/25 598/19 615/3 615/5 615/23 645/16 645/16 needs [4] 588/18 714/19 729/18 730/10 neighbor [2] 675/24 676/7 NELKIN [15] 555/13 555/14 563/18 570/5 570/6 572/3 603/1 722/9 728/8 747/1 761/14 766/17 778/11 784/21 787/7 network [45] 580/25 581/3 581/4 582/10 582/11 582/12 582/14 583/23 584/2 589/16 589/17 598/3 600/14 601/2 618/24 620/25 620/25 625/6 632/17 632/18 642/17 654/25 656/15 656/16 658/16 658/17 663/6 663/11 663/14 664/14 675/10 677/11 678/11 678/12 678/18 678/19 678/20 678/22 679/19 695/14 697/11 701/10 701/11 783/8 786/20 networking [1] 707/8 never [40] 572/8 574/12 574/14 576/6 577/20 577/25 579/10 582/17 583/8 583/15 583/17 589/17 590/23 597/15 607/21 610/3 615/4 618/11 618/12 629/23 631/24 633/6 645/10 649/18 652/2 662/2 662/19 680/13 707/19 708/25 721/17 726/9 728/24 729/15 752/12 752/13 768/16 768/16 777/21 782/18 Newark [8] 582/7 634/1 634/2 651/9 659/3 659/12 659/14 675/23 newer [1] 699/25 next [35] 592/5 601/11 602/3 605/17 624/24 638/8 639/12 639/20 643/16 650/9 654/6 659/10 668/21 671/13 672/10 682/1 690/2 713/3 725/9 728/15 746/17 761/20 761/23 767/24 770/2 771/9 771/15 771/25 771/25 772/7 772/21 774/6 780/4 780/7 781/16 Nicole [1] 646/15 night [5] 561/8 561/18 562/20 683/1 693/20 nighttime [1] 682/25 Nine [1] 688/13 nobody [9] 597/18 604/13 605/1 619/10 686/23 740/25 746/6 748/19 748/22 Nobody's [2] 578/8 591/1 none [4] 587/18 658/10 696/21 755/20 normally [2] 673/10 729/7 notation [1] 593/17 note [5] 560/13 563/5 720/8 752/21 785/12 noted [1] 669/2 notes [2] 785/11 785/23</p>	<p>nothing [30] 600/1 601/2 608/4 617/19 628/16 629/13 629/18 629/22 630/4 634/10 648/13 656/17 658/5 684/18 690/13 693/8 694/14 696/1 696/2 700/16 706/11 706/14 708/7 720/20 746/2 748/20 749/20 751/3 755/24 765/2 notice [4] 590/24 591/13 785/10 786/1 November [4] 705/25 706/7 765/22 766/8 November 2013 [1] 766/8 November 9 [1] 706/7 November 9th [1] 705/25 number [13] 590/17 591/13 592/23 594/12 611/5 622/18 657/19 672/17 712/23 734/15 736/2 762/13 779/22 numbered [1] 707/13 numbers [2] 657/14 777/9 Nussbaum [28] 563/22 565/8 565/9 566/19 566/20 566/25 568/9 572/18 572/20 572/25 573/1 576/20 589/14 610/17 669/7 722/11 728/14 730/24 742/3 752/22 757/4 762/22 766/18 769/14 777/10 778/14 779/7 784/8 Nussbaum's [2] 567/5 567/8 O object [1] 571/24 objection [9] 591/23 690/23 718/9 722/17 722/19 722/21 722/22 744/1 744/2 obligation [1] 666/18 obligations [1] 570/20 observe [1] 756/4 obtain [2] 622/9 731/10 obtaining [1] 566/9 obviate [1] 571/20 obviously [6] 614/18 650/2 677/8 691/6 725/3 740/10 occasions [2] 592/25 786/5 occupied [1] 668/19 occurred [2] 564/16 572/5 occurring [1] 761/6 OCR [1] 555/20 October [35] 649/25 650/8 672/10 672/12 678/6 678/6 680/1 681/17 681/20 682/12 683/15 683/15 683/18 688/16 689/2 689/6 689/20 690/4 698/14 716/14 717/25 718/1 759/25 760/4 760/22 765/14 765/15 766/8 774/5 774/21 777/25 778/12 780/23 781/3 781/5 October 16th [1] 689/20 October 1st [4] 678/6 680/1 681/17 683/15 October 2013 [2] 765/14 765/15 October 2015 [4] 759/25 760/4 760/22 774/21 October 2nd [2] 681/20 683/18 October 6 [1] 689/2 October 6th [5] 688/16 689/6 716/14 717/25 718/1 October 7 [2] 683/15 780/23 October 7th [5] 678/6 682/12 778/12 781/3 781/5 offered [1] 678/13 offhand [41] 575/19 582/18 582/20 584/8 584/15 584/20 585/4 596/10 597/22 612/17 622/19 622/20 636/14 639/17 639/19 646/7 646/16 650/8</p>	<p>652/16 652/25 661/12 670/25 675/21 678/13 688/18 693/4 708/18 708/20 711/4 712/10 715/12 720/4 723/20 730/9 737/9 745/10 745/13 745/14 754/13 756/20 786/7 office [114] 556/14 568/7 579/9 580/18 581/11 581/21 581/22 583/19 595/3 595/24 596/4 596/23 597/22 598/24 599/4 599/5 599/6 599/7 599/8 599/20 600/24 601/11 601/22 603/2 603/15 603/16 604/7 605/2 609/1 609/19 609/23 609/25 610/4 611/4 611/7 612/17 612/18 613/19 635/20 637/12 637/23 638/8 640/3 640/4 640/7 640/8 641/15 644/2 653/25 654/4 654/5 654/6 654/16 656/20 657/9 658/8 659/3 659/6 659/10 659/12 665/10 667/22 674/21 675/1 675/2 675/20 693/20 694/8 694/11 694/14 700/6 700/7 705/10 705/12 705/14 705/16 705/19 705/20 705/21 710/19 711/10 712/3 712/5 715/16 716/1 717/24 718/7 718/13 718/20 718/21 720/10 720/11 721/24 722/11 722/12 723/7 723/15 723/19 729/23 733/22 739/8 739/10 739/17 739/20 739/22 741/17 747/19 748/10 756/8 756/9 756/13 756/16 756/19 762/5 offices [3] 582/21 582/23 756/3 offsite [1] 648/8 often [5] 575/16 586/5 705/8 763/18 763/19 oil [65] 556/2 556/4 575/18 576/8 576/9 579/15 579/25 580/15 581/5 594/22 596/20 596/24 599/24 601/22 603/20 604/5 604/13 605/20 605/22 614/11 614/11 614/12 629/18 629/20 629/21 629/22 656/6 656/10 656/12 657/1 657/1 657/2 657/2 657/10 657/21 667/24 667/25 711/12 711/15 711/19 719/19 735/2 735/2 735/4 735/5 735/15 735/20 737/5 737/14 737/22 740/20 740/21 740/21 743/17 743/18 748/19 749/2 749/25 750/3 750/4 750/5 750/5 750/10 750/22 753/14 old [42] 577/15 595/20 596/5 596/6 597/5 599/22 600/3 600/4 600/10 601/17 604/5 606/14 606/15 610/6 611/10 628/16 628/17 629/12 631/14 634/7 635/18 635/20 635/23 636/7 638/5 640/8 641/1 660/4 660/7 660/7 664/25 700/2 700/7 710/22 711/7 711/19 746/16 748/5 748/6 748/7 748/7 765/25 on -- of [1] 624/14 one-time [1] 590/9 ongoing [1] 562/4 online [29] 589/16 616/12 625/16 625/16 627/5 629/7 630/25 631/2 631/3 631/4 631/7 631/13 631/16 639/16 666/1 666/12 671/19 675/5 676/1 676/2 677/6 729/11 738/14 744/17 744/19 773/20 774/5 774/13 774/17 ons [1] 642/6 onsite [6] 624/5 755/12 763/17 763/18 763/20 764/25 OOL [1] 639/15 OOL-4B63C143-static [1] 639/15 open [11] 601/18 616/10 616/10 685/10 720/24 730/13 730/15 757/13 757/19</p>
--	---	---

<p>open... [2] 759/12 771/13 opened [5] 641/18 644/4 685/15 740/13 741/1 opening [1] 643/6 operate [1] 739/22 operated [2] 770/13 777/20 operating [1] 700/3 operational [1] 766/11 opportunity [1] 571/18 opposed [1] 690/11 Optimum [1] 639/16 or -- I [1] 611/18 oral [1] 605/14 ordeal [2] 760/17 765/20 order [12] 557/4 557/13 558/7 558/14 558/15 560/15 560/16 646/6 714/12 750/21 757/13 767/21 ordered [4] 671/19 750/16 750/18 750/22 orders [6] 564/13 570/20 658/5 729/18 750/2 750/15 ORENSTEIN [1] 555/10 original [2] 620/7 782/2 originally [16] 569/17 579/25 590/7 590/13 596/5 596/6 600/11 627/17 644/11 658/16 665/20 665/22 668/3 698/2 698/6 774/8 otherwise [2] 663/25 700/25 Outlook [3] 616/1 616/23 616/23 outside [10] 563/12 620/15 620/18 620/20 620/24 642/2 688/21 702/23 706/15 761/10 overall [2] 652/21 657/7 overruled [3] 690/24 723/1 744/11 overwrite [4] 746/14 746/16 747/2 747/6 overwriting [1] 747/3 overwrote [6] 725/21 725/22 725/23 725/24 726/2 746/9 owed [2] 586/7 703/20 own [12] 579/21 611/23 649/10 666/3 674/14 674/16 678/20 695/9 695/9 705/21 743/23 766/24 owned [5] 565/20 582/19 606/8 630/19 734/21 owners [1] 742/11 ownership [3] 679/20 734/22 734/24 owns [3] 678/22 742/6 743/14</p>	<p>Papa's [1] 764/1 paper [9] 594/4 767/3 769/16 769/20 769/24 770/23 772/8 773/3 773/10 paperwork [1] 587/23 paragraph [3] 617/23 620/12 700/9 paragraph 8 [1] 700/9 parents [2] 573/7 623/13 Park [21] 556/5 565/24 576/5 576/10 577/9 577/10 577/12 577/19 577/20 577/25 578/13 639/5 667/13 667/20 719/20 742/11 742/13 742/18 742/20 742/21 743/1 part [28] 563/8 564/8 570/21 589/17 589/18 600/11 656/9 656/10 656/12 656/14 656/16 656/16 667/13 668/12 668/13 669/25 670/1 670/14 671/14 674/6 682/7 701/23 703/7 716/11 717/21 719/20 743/12 757/11 part-time [3] 669/25 670/1 670/14 participated [3] 560/2 560/3 560/3 particular [9] 565/20 592/25 595/18 611/22 687/12 736/11 737/13 738/2 743/6 particularly [2] 584/25 729/14 Particulars [1] 754/2 parties [4] 649/12 699/1 762/14 782/6 partner [7] 706/9 706/12 706/18 706/21 706/25 707/3 707/9 partners [3] 574/9 678/15 680/4 party [1] 717/14 pass [2] 562/22 759/13 Passaic [9] 628/19 628/19 698/18 698/21 712/18 712/24 713/2 716/8 729/22 passes [1] 749/19 password [73] 563/2 563/3 596/14 596/16 596/17 597/17 598/13 598/16 599/15 600/7 600/8 600/8 600/9 600/10 600/11 603/21 609/3 609/4 611/21 611/23 611/23 611/24 612/6 612/10 612/11 626/17 646/2 646/3 648/20 648/23 649/19 651/19 651/20 658/24 661/18 678/10 678/14 678/24 678/25 679/2 679/9 679/18 680/7 680/18 689/25 690/1 695/9 695/9 720/8 745/21 757/18 757/19 757/20 758/11 758/13 778/6 778/9 778/10 778/12 778/17 778/18 778/19 779/9 779/14 779/16 780/2 780/11 780/15 780/19 780/22 781/3 781/5 781/9 passwords [27] 590/8 600/6 611/7 611/16 611/18 612/3 612/8 612/9 649/16 651/18 652/9 678/7 678/11 678/16 678/19 681/17 681/23 682/9 682/17 686/23 689/21 689/22 690/8 695/11 695/12 719/16 745/16 past [1] 731/21 paste [2] 783/16 783/18 PAUL [12] 555/15 593/23 594/7 594/14 731/20 753/17 753/17 753/18 754/6 754/7 754/10 754/11 pause [3] 559/22 653/20 653/22 pay [12] 573/25 671/21 672/5 695/25 703/8 717/11 729/14 739/9 782/3 782/14 783/5 783/22 payable [4] 698/14 765/10 766/13 771/14 payables [1] 608/18 paying [7] 562/4 590/24 591/1 669/20 670/10 717/14 762/15</p>	<p>payroll [17] 567/16 567/22 568/7 608/17 644/14 764/21 766/14 768/15 767/21 767/21 767/23 770/9 770/10 770/11 770/12 770/15 770/16 PC [6] 710/12 711/13 711/14 717/24 719/2 722/11 PCs [1] 693/19 percent [1] 634/19 Perfect [3] 640/13 741/17 741/18 perfectly [1] 777/5 perform [2] 686/25 771/10 perhaps [1] 749/12 period [2] 785/6 785/10 permission [1] 759/1 permissions [3] 644/8 644/9 774/18 perpendicular [1] 654/13 person [25] 559/14 588/4 588/11 588/14 588/16 588/19 596/14 606/5 606/5 614/20 619/13 624/5 655/13 678/19 693/3 695/7 695/8 721/2 726/15 726/24 743/14 760/23 767/9 772/7 782/1 person's [1] 655/19 personal [10] 579/7 579/10 652/10 652/14 666/7 679/10 695/12 760/20 760/23 774/14 personally [3] 579/14 582/3 623/4 persons [1] 782/6 PHILIP [1] 555/13 phone [17] 555/20 622/12 622/15 622/18 662/1 662/4 662/6 663/1 663/3 677/15 686/5 691/19 731/8 731/8 753/19 753/20 776/15 phone-related [1] 663/1 phones [2] 662/2 710/1 phonetic [1] 681/6 photos [2] 649/15 649/15 phrase [1] 565/13 physical [8] 580/5 582/13 608/5 642/3 678/23 694/5 731/1 740/10 physically [6] 607/16 664/9 691/4 691/24 760/9 764/6 pick [5] 666/2 671/18 695/8 695/9 754/24 picture [5] 626/11 667/16 732/15 770/13 783/18 piece [1] 564/18 pile [1] 638/23 place [13] 561/3 610/8 627/4 630/14 637/9 685/17 692/24 697/20 698/15 698/22 725/9 729/25 786/19 placed [2] 560/25 762/14 Plainfield [2] 627/11 698/16 plaintiff [12] 555/4 555/13 558/18 561/4 565/19 566/11 566/12 570/13 572/20 759/2 763/14 782/7 plaintiff's [2] 571/24 766/19 plaintiffs [1] 557/5 plenty [1] 558/11 plug [4] 604/6 675/9 675/9 677/3 plugged [10] 599/12 599/13 599/13 604/3 632/4 632/12 633/14 712/16 724/15 745/11 plugging [5] 634/21 675/17 675/22 677/11 677/11 Plus [1] 627/7 point [16] 561/4 565/3 570/23 610/12 684/11 687/12 688/24 707/10 726/19 726/21 754/18 761/5 764/17 765/11 773/18 776/17 pointing [1] 674/25</p>
<p>P P.C [1] 556/11 p.m [4] 562/20 669/2 705/25 787/1 P76 [3] 781/1 781/1 781/2 P85 [3] 784/22 784/23 784/24 package [1] 774/24 page 3 [1] 594/21 page 5 [1] 707/12 page 80 [1] 673/1 page 85 [1] 674/9 pages [3] 565/1 640/20 785/18 paid [21] 575/13 575/13 578/16 584/4 584/17 584/19 585/15 585/25 586/1 586/1 589/7 666/3 671/19 672/7 672/8 673/16 675/1 699/11 699/15 717/9 743/13 Papa [22] 625/21 626/3 626/10 694/10 694/14 707/14 707/16 707/19 707/21 763/22 764/4 771/9 771/20 772/14 773/25 775/5 776/22 777/18 779/21 780/7 780/10 786/5</p>		

<p> P policy [3] 678/11 678/12 678/18 pop [1] 757/16 Popa [1] 564/25 Poppa [2] 570/9 571/10 popping [1] 730/20 port [2] 640/12 745/12 portable [1] 607/19 portal [2] 580/14 580/16 portals [1] 583/2 posing [1] 575/7 position [2] 570/4 589/11 positions [1] 560/5 possess [1] 740/3 possession [1] 570/14 possibility [1] 729/6 possible [12] 585/11 605/8 623/23 683/16 684/1 686/19 687/4 687/13 715/1 718/4 751/20 779/17 possibly [6] 698/5 711/15 723/13 740/16 741/3 756/14 postpone [1] 557/4 potentially [1] 564/12 power [4] 645/18 659/24 675/9 677/11 PowerBuilder [2] 605/25 606/1 powerful [1] 749/16 practice [2] 696/8 746/13 practices [1] 679/6 preceded [1] 785/21 predated [1] 699/23 predicate [1] 722/24 preempted [1] 771/19 preliminary [3] 753/3 758/24 764/19 Premiere [1] 774/15 prepare [2] 585/8 673/21 prepared [8] 614/1 633/1 673/6 673/8 673/19 731/10 766/21 784/25 preparing [1] 638/17 present [7] 570/10 580/8 580/9 686/10 686/21 762/9 762/11 presented [1] 570/12 presently [3] 571/4 729/19 757/8 preservation [1] 637/18 preserve [2] 745/23 747/17 preserved [4] 597/20 598/1 637/6 638/9 pretty [9] 569/6 586/22 595/15 622/16 660/11 661/4 675/25 715/12 753/24 prevent [1] 686/21 preview [1] 570/16 previous [1] 757/20 previously [2] 742/22 750/16 print [13] 615/7 615/16 615/17 617/9 617/11 620/20 651/5 651/7 651/11 661/2 661/8 673/12 766/13 printed [4] 673/24 674/1 766/14 766/15 printer [2] 584/2 661/3 printers [1] 574/19 printing [6] 610/20 651/2 651/4 654/25 659/23 698/13 prints [1] 608/18 private [1] 579/8 Privilege [1] 722/20 privileged [5] 558/9 558/18 560/20 560/22 561/1 Pro [3] 774/15 782/4 782/15 problem [7] 604/23 625/12 626/19 626/20 627/25 646/21 660/2 problems [10] 607/1 608/7 625/23 659/20 659/21 659/24 663/1 663/3 </p>	<p> P 675/24 776/14 proceed [1] 782/24 proceedings [3] 558/23 762/16 787/2 12530 process [2] 605/15 661/12 produce [7] 565/23 568/1 615/4 615/5 616/17 767/16 768/20 produced [6] 555/24 564/21 564/24 564/25 567/7 592/7 producing [3] 567/6 592/10 764/21 proficient [2] 784/9 784/12 program [62] 600/5 605/25 606/13 608/16 608/19 608/20 609/13 617/14 624/17 634/18 636/8 636/10 640/1 640/16 644/4 644/9 644/19 645/5 646/8 646/20 647/3 658/4 658/4 685/2 686/2 694/6 697/16 698/8 700/10 724/6 724/7 730/14 730/16 733/4 733/6 733/10 733/11 747/4 750/20 763/7 763/7 763/10 763/11 764/15 764/20 764/24 769/5 769/6 772/12 772/15 772/19 774/13 775/6 775/9 775/12 775/15 775/15 776/19 777/19 782/12 782/17 784/10 programmer [4] 600/5 605/23 607/13 677/24 programming [5] 629/5 632/20 634/12 634/13 634/13 programs [4] 636/16 652/4 652/7 775/19 Proline [1] 628/17 promised [1] 785/16 properly [2] 627/13 665/22 propose [1] 570/7 proprietary [1] 697/16 protected [2] 596/16 600/7 protector [1] 596/14 protocol [4] 561/3 607/25 617/16 679/3 prove [1] 691/7 provide [13] 558/2 571/21 571/21 579/2 579/5 631/5 662/12 662/13 666/18 680/16 682/17 685/3 781/9 provided [6] 558/18 579/3 579/4 622/4 778/20 780/11 providing [3] 590/1 682/9 778/12 pulled [1] 766/14 pulls [2] 617/16 617/17 purchase [6] 664/19 664/21 665/2 665/3 665/4 665/24 purchased [7] 665/12 665/17 666/9 666/13 711/6 773/25 782/18 purchases [2] 666/5 672/4 purports [1] 570/13 purpose [4] 581/13 630/5 685/16 774/2 purposes [1] 626/24 pursue [1] 569/24 pushing [3] 679/13 679/16 679/16 put [47] 569/12 573/13 577/11 577/18 577/20 578/5 578/10 585/17 586/9 596/17 598/13 599/5 599/6 615/8 616/19 627/5 637/7 637/12 637/23 644/21 645/2 646/22 658/24 672/6 676/16 678/1 695/7 697/9 698/2 698/4 698/16 714/13 715/4 728/9 733/6 740/14 740/19 740/21 741/19 747/18 748/1 748/2 748/7 751/5 751/7 751/11 773/9 puts [1] 732/15 putting [2] 781/14 782/8 </p> <p> Q quality [1] 648/10 </p>	<p> P quantity [1] 568/2 questioning [1] 591/24 questions [14] 568/11 575/3 575/7 585/22 669/18 728/4 754/20 757/5 759/16 759/23 759/25 777/24 778/1 778/11 quick [1] 726/22 QuickBooks [30] 645/5 649/1 649/4 693/19 693/22 764/25 765/1 771/23 773/19 773/20 773/22 774/2 774/10 774/11 774/12 774/12 774/14 774/17 774/17 774/19 774/24 775/1 775/1 775/8 775/15 775/23 776/3 776/4 776/6 776/9 quicker [1] 634/18 quickly [2] 571/18 726/25 quite [9] 572/8 615/8 660/7 702/17 703/16 716/5 729/23 747/23 782/15 quote [3] 757/12 757/20 771/10 </p> <p> R R-I-S [1] 733/4 rabbis [1] 591/13 raise [1] 683/20 raises [1] 571/19 range [1] 674/3 RAPHAEL [1] 556/16 rate [1] 727/4 rather [1] 560/16 re [1] 577/18 re-put [1] 577/18 reached [1] 560/16 read [10] 557/6 557/6 681/10 681/11 706/2 729/15 757/9 776/25 776/25 785/17 reading [1] 557/11 reads [1] 563/2 ready [2] 610/16 698/12 real [18] 574/17 733/3 733/3 738/1 738/4 739/8 739/11 740/1 740/18 740/19 744/25 745/19 748/20 752/10 752/15 755/22 755/22 755/24 realize [1] 780/20 really [38] 569/23 574/25 575/1 575/9 580/11 581/12 582/17 588/1 603/22 605/10 605/23 606/3 614/23 624/9 644/11 656/3 662/2 665/15 670/16 676/4 677/16 678/1 696/1 700/16 701/4 706/8 707/5 729/8 729/14 729/16 736/16 742/4 752/12 762/15 765/2 771/5 774/16 776/5 Realty [2] 556/4 576/3 reason [15] 558/15 560/20 569/10 570/2 571/21 577/11 609/8 630/21 631/20 657/25 679/2 684/2 684/4 698/17 779/11 reasons [1] 569/16 receipt [3] 673/21 674/1 699/16 receipts [7] 666/6 672/8 674/4 699/12 699/13 699/14 768/2 receivable [1] 771/14 receivables [1] 608/17 receive [4] 666/15 680/1 690/20 729/9 received [11] 560/15 566/22 568/3 575/17 575/18 575/18 577/20 578/12 588/17 638/21 778/8 recently [9] 603/7 615/3 615/5 615/9 659/19 706/9 732/14 754/19 757/23 Recess [2] 610/14 722/8 recognize [25] 576/13 576/23 587/1 </p>
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<p>recognize... [22] 597/23 598/14 598/15 626/16 639/2 643/5 667/5 667/7 667/7 673/2 682/5 689/16 693/10 708/23 757/12 757/21 762/25 763/23 764/8 766/22 778/3 779/18</p> <p>recollection [5] 675/2 687/6 687/10 779/8 780/10</p> <p>recommended [1] 590/7</p> <p>reconciled [1] 777/3</p> <p>reconciliation [4] 776/7 776/13 776/17 777/2</p> <p>reconvene [2] 668/20 786/24</p> <p>record [22] 560/9 560/25 564/15 604/21 605/7 605/18 612/7 615/23 623/1 635/7 635/9 655/19 655/21 656/2 663/22 695/11 722/18 736/8 762/14 762/17 762/17 777/1</p> <p>recorded [1] 555/23</p> <p>records [11] 563/17 565/2 568/7 568/25 586/2 608/18 618/3 655/22 666/5 756/1 771/13</p> <p>recreation [1] 771/14</p> <p>recycle [1] 642/17</p> <p>redirected [1] 561/25</p> <p>refer [4] 576/12 625/20 626/8 643/14</p> <p>reference [2] 776/22 786/10</p> <p>referenced [2] 608/24 757/6</p> <p>referenced -- well [1] 608/24</p> <p>references [1] 577/4</p> <p>referred [3] 624/4 759/16 774/11</p> <p>referring [19] 611/1 619/7 629/12 664/24 679/8 680/8 698/19 706/18 706/19 706/21 706/24 729/2 729/3 729/22 735/25 763/8 767/19 768/8 773/16</p> <p>refers [7] 639/8 640/11 643/8 643/21 644/7 693/3 728/19</p> <p>reflect [1] 732/6</p> <p>refresh [5] 731/20 731/22 733/18 779/8 780/10</p> <p>refreshes [1] 680/24</p> <p>refused [1] 681/18</p> <p>regard [2] 567/8 675/19</p> <p>regarding [9] 560/25 623/20 623/21 625/13 632/13 640/11 689/20 689/21 731/1</p> <p>regular [7] 613/17 642/12 642/18 700/18 704/23 704/25 774/19</p> <p>regularly [1] 571/11</p> <p>regulation [1] 589/12</p> <p>reimbursed [1] 673/14</p> <p>reimbursement [13] 671/12 671/15 672/1 672/16 672/18 672/23 673/15 673/17 674/6 701/23 702/11 703/6 703/7</p> <p>reinstitute [1] 759/11</p> <p>reinstated [3] 758/9 758/19 759/6</p> <p>reinstitution [1] 773/7</p> <p>relate [1] 666/5</p> <p>related [10] 563/25 566/21 627/23 638/25 663/1 677/25 678/1 709/23 740/4 759/24</p> <p>relates [4] 649/11 699/1 706/17 759/14</p> <p>relating [2] 625/10 760/8</p> <p>relation [2] 683/3 709/10</p> <p>relationship [3] 592/1 623/6 709/9</p> <p>relationships [2] 591/16 709/11</p> <p>release [6] 559/20 560/6 560/19 560/21 561/2 564/12</p>	<p>released [1] 560/21</p> <p>releasing [1] 559/14</p> <p>relevance [1] 585/21</p> <p>relevancy [1] 688/22</p> <p>relevant [1] 688/24</p> <p>reliability [1] 566/1</p> <p>reliable [2] 565/25 566/9</p> <p>relief [2] 567/13 569/17</p> <p>reload [2] 697/3 697/4</p> <p>relocation [2] 760/3 760/7</p> <p>remained [1] 747/14</p> <p>remaining [2] 560/22 569/11</p> <p>remains [1] 782/23</p> <p>remedy [2] 571/22 608/7</p> <p>remember [92] 574/22 575/17 587/2 587/3 589/10 590/3 590/13 593/2 593/3 593/4 594/13 597/22 597/23 598/17 598/21 599/3 606/8 612/1 622/19 623/25 628/17 632/24 634/21 641/20 646/4 646/16 648/2 648/24 650/7 650/8 653/7 653/7 653/8 654/2 654/7 654/8 654/19 654/23 655/1 657/3 665/13 669/13 669/24 671/15 672/20 674/8 675/19 675/22 676/12 676/13 678/5 682/1 682/23 682/24 683/7 683/9 685/21 685/21 687/4 687/7 687/8 687/13 687/19 687/20 696/13 699/4 699/22 699/25 700/5 704/6 707/20 707/23 712/10 712/15 730/11 733/20 735/6 747/23 753/25 754/2 754/13 755/7 755/9 759/25 761/21 762/13 768/2 779/24 780/1 781/8 781/14 786/6</p> <p>remembered [2] 665/12 778/18</p> <p>reminded [1] 761/12</p> <p>remote [32] 618/2 618/3 641/11 641/12 641/18 641/22 641/23 641/24 641/25 642/5 642/10 642/13 642/24 651/2 651/4 651/24 651/25 652/4 653/18 684/21 684/24 697/19 723/4 723/9 723/12 724/20 736/3 736/3 736/13 736/14 757/13 784/4</p> <p>remotely [23] 607/21 612/15 612/15 618/25 619/5 621/24 639/21 641/6 642/21 643/1 651/22 715/22 718/3 722/12 723/17 725/2 733/9 781/23 782/10 782/22 782/22 783/2 784/12</p> <p>removal [8] 561/1 568/11 568/12 572/12 759/24 760/3 760/7 784/16</p> <p>remove [3] 646/19 683/19 724/24</p> <p>removed [10] 560/23 561/21 568/25 572/8 597/19 603/9 607/8 607/11 711/9 760/21</p> <p>rendered [1] 570/4</p> <p>rent [3] 631/3 631/4 739/9</p> <p>rented [1] 607/5</p> <p>rep [1] 776/23</p> <p>repair [1] 697/3</p> <p>repairing [1] 696/22</p> <p>repeat [2] 631/11 752/25</p> <p>repeated [1] 708/2</p> <p>repeating [3] 707/25 726/12 766/1</p> <p>repeats [1] 767/11</p> <p>replaced [1] 629/6</p> <p>report [10] 557/7 561/10 561/20 564/11 564/17 564/20 565/5 571/18 588/7 596/11</p> <p>Reporter [1] 555/20</p> <p>reports [1] 771/13</p> <p>represent [1] 578/5</p> <p>representing [1] 669/15</p>	<p>request [3] 563/9 579/1 778/8</p> <p>requested [2] 615/18 689/22</p> <p>requesting [1] 778/9</p> <p>requests [1] 561/8</p> <p>require [1] 625/13</p> <p>reset [5] 590/8 648/21 758/4 758/6 758/6</p> <p>reside [2] 573/2 573/6</p> <p>resided [1] 606/13</p> <p>residing [1] 606/14</p> <p>resolved [1] 565/22</p> <p>respect [8] 561/7 567/5 592/16 615/14 635/15 748/14 749/22 775/19</p> <p>respected [1] 560/5</p> <p>respectfully [1] 560/13</p> <p>respective [1] 560/4</p> <p>respond [1] 571/18</p> <p>response [6] 566/22 567/15 681/22 708/25 730/21 730/22</p> <p>responsible [2] 742/9 775/2</p> <p>rest [2] 670/2 776/25</p> <p>restore [1] 726/25</p> <p>restored [1] 726/22</p> <p>restriction [1] 753/10</p> <p>result [1] 681/13</p> <p>results [1] 776/16</p> <p>retain [1] 666/11</p> <p>returned [2] 566/11 626/13</p> <p>returns [2] 562/24 563/1</p> <p>revenue [1] 670/12</p> <p>review [1] 617/21</p> <p>reviewing [1] 567/6</p> <p>RICHARD [4] 556/6 556/8 615/22 616/18</p> <p>RIS [1] 733/4</p> <p>River [1] 739/2</p> <p>Rivera [21] 556/7 579/16 584/1 595/3 595/4 595/21 596/23 618/13 618/18 618/19 643/13 646/17 658/1 684/17 685/22 686/1 718/23 727/21 736/22 749/4 768/9</p> <p>Rivera's [8] 603/2 618/6 618/8 618/11 620/21 647/4 653/25 699/18</p> <p>Rivers [153]</p> <p>Rivers' [2] 561/21 652/12</p> <p>Rivers/Sonia [1] 668/13</p> <p>Road [2] 574/23 722/14</p> <p>ROBERT [1] 556/10</p> <p>robust [1] 624/19</p> <p>Rogosnitsky [3] 630/18 632/21 646/1</p> <p>Rogosnitsky's [1] 643/15</p> <p>Rogosnitsky [27] 563/23 566/19 566/25 607/10 608/14 619/17 622/13 623/19 624/4 624/8 626/4 632/13 665/21 677/14 684/6 686/9 729/13 743/11 752/4 758/6 758/8 758/12 759/6 759/15 763/3 763/6 773/6</p> <p>Rogosnitsky's [1] 630/21</p> <p>role [10] 567/8 568/11 644/7 644/10 645/6 645/14 764/1 770/3 770/8 771/11</p> <p>roles [2] 645/17 771/22</p> <p>rolling [1] 729/4</p> <p>room [5] 657/1 663/19 676/20 676/22 676/23</p> <p>ROSENBLATT [1] 556/16</p> <p>Rosie [9] 613/11 712/1 718/13 719/11 719/12 719/16 719/17 732/22 738/23</p> <p>Rosie's [2] 613/11 705/23</p> <p>Rossi [2] 718/12 738/21</p> <p>rough [1] 699/17</p>
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<p>P</p> <p>roughly [5] 657/14 657/17 671/9 704/10 716/11</p> <p>router [3] 619/22 692/18 692/24</p> <p>routine [1] 693/14</p> <p>RPR [1] 555/20</p> <p>run [5] 675/4 675/25 676/1 700/24 701/5</p> <p>running [4] 654/12 654/13 654/13 675/14</p> <p>runs [1] 674/17</p> <p>résumé [11] 576/20 577/1 577/1 577/2 578/4 578/9 578/9 578/16 578/17 591/14 742/24</p>	<p>Case 1:15-cv-06861-CBA-JO Document 329 Filed 11/02/16 Page 249 of 252 PageID #: 15533</p> <p>send [8] 568/4 607/23 608/1 680/17 681/20 685/3 692/10 703/11</p> <p>sending [3] 685/6 690/7 707/8</p> <p>sends [1] 692/5</p> <p>sense [3] 566/14 657/19 767/6</p> <p>sent [22] 559/17 559/18 562/11 568/3 568/5 594/7 594/12 612/6 666/8 666/9 680/20 681/1 690/20 691/9 691/24 692/5 692/11 703/9 703/13 708/10 708/14 708/21</p> <p>sentence [1] 764/14</p> <p>separate [21] 580/1 580/3 600/24 609/11 609/14 617/18 663/20 673/18 688/4 692/21 692/22 692/23 693/5 694/13 694/17 694/18 702/12 721/1 741/13 782/12 782/17</p> <p>September [2] 779/9 780/15</p> <p>September 30 [2] 779/9 780/15</p> <p>series [1] 778/11</p> <p>serve [2] 556/13 624/7</p> <p>server [162]</p> <p>servers [29] 561/22 561/22 561/24 580/18 580/20 581/1 608/4 627/8 628/19 628/25 630/5 632/17 634/9 634/10 635/15 635/18 649/23 663/19 665/9 675/25 684/8 723/24 724/3 724/14 748/14 748/17 748/22 749/25 752/17</p> <p>serves [1] 650/1</p> <p>service [12] 676/6 684/10 684/12 693/24 700/22 700/24 700/24 701/3 701/5 716/2 743/12 743/13</p> <p>services [6] 556/15 573/17 583/19 590/1 624/11 763/13</p> <p>servicing [1] 684/13</p> <p>serving [1] 658/1</p> <p>session [1] 651/25</p> <p>sessions [1] 651/24</p> <p>set [100] 597/8 608/5 611/9 614/12 614/20 615/3 615/6 615/15 615/15 615/21 616/3 616/23 616/25 617/14 621/23 621/23 621/24 627/3 641/1 644/11 644/19 645/8 646/12 647/17 648/9 648/10 648/24 653/19 654/2 654/3 654/8 654/22 655/8 655/11 655/11 662/3 665/7 665/8 668/5 668/7 668/10 675/12 675/16 677/21 685/25 694/22 695/3 695/13 695/18 696/6 696/7 697/20 700/15 708/8 709/1 709/5 709/6 710/10 711/1 712/7 712/8 712/13 712/19 712/23 712/25 715/1 715/3 715/6 715/15 715/17 716/4 716/18 716/23 717/24 718/3 719/8 720/19 720/22 723/21 724/10 724/11 724/14 724/15 727/24 729/12 733/13 738/13 740/24 745/20 746/8 748/24 763/19 771/24 775/10 775/11 778/14 782/11 782/13 786/20 787/2</p> <p>sets [6] 701/3 701/5 710/3 727/5 727/24 728/1</p> <p>setting [4] 615/14 629/5 708/7 712/15</p> <p>setup [1] 613/15</p> <p>seven [1] 686/7</p> <p>several [6] 558/7 564/25 568/1 592/8 685/23 711/6</p> <p>Shabots [1] 593/24</p> <p>shape [3] 562/3 617/21 755/6</p> <p>share [2] 775/10 775/11</p> <p>she -- what [1] 621/12</p> <p>sheet [9] 646/11 767/3 769/16 769/20</p>	<p>769/24 770/25 772/8 773/3 773/10</p> <p>sheets [1] 770/16</p> <p>Shemini [2] 688/2 688/4</p> <p>shifted [1] 619/17</p> <p>shipping [5] 612/18 624/20 659/8 659/8 665/10</p> <p>Shlomo [1] 582/2</p> <p>short [2] 665/21 676/4</p> <p>shortcut [3] 571/20 571/21 640/15</p> <p>shot [6] 639/4 641/21 642/1 642/20 642/24 642/25</p> <p>shots [1] 639/3</p> <p>shoulder [1] 732/25</p> <p>shoulders [1] 732/23</p> <p>shut [1] 660/13</p> <p>side [6] 569/9 571/2 571/24 586/1 589/1 637/7</p> <p>sides [1] 563/15</p> <p>sideways [1] 654/10</p> <p>sign [5] 586/23 587/9 587/12 701/16 779/23</p> <p>signature [9] 587/4 587/11 691/5 691/25 692/1 692/4 692/13 727/11 727/13</p> <p>signed [2] 593/21 594/1</p> <p>significant [2] 570/21 571/19</p> <p>silent [9] 706/8 706/9 706/12 706/18 706/21 706/25 707/3 707/7 707/9</p> <p>silvered [1] 721/19</p> <p>Simchat [3] 688/2 688/5 689/4</p> <p>similar [1] 624/19</p> <p>simply [3] 562/7 563/10 736/10</p> <p>single [2] 556/13 583/14</p> <p>single-server [1] 583/14</p> <p>sister [1] 588/20</p> <p>sit [1] 732/23</p> <p>site [6] 643/23 647/24 648/3 649/22 649/24 650/2</p> <p>sits [6] 580/19 580/21 602/1 602/2 613/11 694/6</p> <p>sitting [9] 600/3 600/25 601/25 620/24 621/1 642/13 700/12 783/3 784/13</p> <p>six [6] 615/22 634/2 656/21 669/24 686/7 702/21</p> <p>sixth [3] 692/17 705/24 706/4</p> <p>size [1] 581/14</p> <p>skill [7] 677/21 727/5 727/23 727/24 728/1 760/14 782/8</p> <p>skills [1] 727/16</p> <p>slash [1] 693/6</p> <p>slow [4] 603/11 604/18 604/24 642/8</p> <p>slowly [2] 605/6 695/5</p> <p>small [3] 575/14 575/15 656/20</p> <p>smaller [2] 701/12 762/22</p> <p>software [16] 608/6 636/12 643/23 677/17 677/18 677/22 677/22 677/25 678/2 686/10 686/15 707/19 725/18 743/13 743/14 743/16</p> <p>Solomon [1] 556/13</p> <p>someone [30] 590/7 607/18 614/18 616/9 616/22 620/9 625/12 633/11 633/14 646/24 650/2 653/9 667/16 684/21 686/23 691/4 691/8 695/3 705/10 718/13 729/9 730/8 732/21 733/11 740/15 752/7 758/11 758/15 781/22 782/13</p> <p>someplace [1] 617/13</p> <p>somewhere [22] 561/23 563/11 582/22 585/3 585/10 589/9 607/5 608/1 641/7 641/11 642/4 642/13 651/5 653/1 684/22 684/25 685/6 685/13 685/14</p>
<p>S</p> <p>Sachs [4] 588/25 589/9 589/10 589/11</p> <p>safekeeping [5] 597/20 598/1 603/9 637/6 638/10</p> <p>salary [1] 672/24</p> <p>Salcedo [8] 556/7 568/11 569/1 572/4 572/7 581/6 736/22 737/21</p> <p>sales [6] 646/9 767/16 767/25 768/3 768/6 771/4</p> <p>Samplers [1] 741/18</p> <p>Samples [2] 640/13 741/17</p> <p>Sandberg [1] 745/20</p> <p>Sandra [3] 645/15 646/15 730/10</p> <p>sat [10] 610/6 632/4 654/6 654/10 697/20 697/20 738/9 740/25 752/13 765/18</p> <p>Saturday [1] 560/16</p> <p>save [3] 617/4 617/5 673/8</p> <p>saved [7] 614/25 615/8 615/11 616/11 661/5 746/11 747/4</p> <p>saver [2] 732/11 732/13</p> <p>saw [10] 557/13 577/19 597/23 614/11 636/2 637/20 638/2 682/6 688/19 729/15</p> <p>SCHAFHAUSER [14] 555/15 557/19 559/1 563/6 569/19 622/4 707/14 753/17 755/1 769/13 779/6 784/7 785/15 787/8</p> <p>schedule [4] 687/2 687/4 687/13 687/21</p> <p>school [3] 589/21 709/18 709/20</p> <p>SCHREIBER [14] 555/3 570/8 574/4 645/13 716/3 716/6 771/15 772/7 772/10 772/17 777/11 777/17 780/22 781/4</p> <p>scope [2] 570/5 572/2</p> <p>screen [43] 581/11 581/13 581/14 581/20 598/6 598/6 598/9 598/9 598/11 598/12 598/13 598/17 599/13 609/5 613/17 635/24 636/2 639/3 639/4 639/20 641/8 641/9 641/9 641/13 641/21 642/1 642/16 642/19 642/20 642/24 642/25 667/5 667/17 701/12 701/13 720/9 732/9 732/10 732/11 732/13 732/20 749/20 769/17</p> <p>screens [2] 732/4 745/8</p> <p>screenshot [1] 783/18</p> <p>search [4] 677/5 738/25 740/11 741/5</p> <p>second [9] 562/16 562/18 592/20 626/11 653/20 674/19 686/8 693/16 781/1</p> <p>secured [1] 620/13</p> <p>security [2] 655/23 712/7</p> <p>seeking [2] 568/23 570/13</p> <p>seem [3] 566/1 569/11 704/13</p> <p>Sekowski [1] 761/24</p> <p>selecting [1] 661/3</p> <p>sell [1] 583/18</p>	<p>send [8] 568/4 607/23 608/1 680/17 681/20 685/3 692/10 703/11</p> <p>sending [3] 685/6 690/7 707/8</p> <p>sends [1] 692/5</p> <p>sense [3] 566/14 657/19 767/6</p> <p>sent [22] 559/17 559/18 562/11 568/3 568/5 594/7 594/12 612/6 666/8 666/9 680/20 681/1 690/20 691/9 691/24 692/5 692/11 703/9 703/13 708/10 708/14 708/21</p> <p>sentence [1] 764/14</p> <p>separate [21] 580/1 580/3 600/24 609/11 609/14 617/18 663/20 673/18 688/4 692/21 692/22 692/23 693/5 694/13 694/17 694/18 702/12 721/1 741/13 782/12 782/17</p> <p>September [2] 779/9 780/15</p> <p>September 30 [2] 779/9 780/15</p> <p>series [1] 778/11</p> <p>serve [2] 556/13 624/7</p> <p>server [162]</p> <p>servers [29] 561/22 561/22 561/24 580/18 580/20 581/1 608/4 627/8 628/19 628/25 630/5 632/17 634/9 634/10 635/15 635/18 649/23 663/19 665/9 675/25 684/8 723/24 724/3 724/14 748/14 748/17 748/22 749/25 752/17</p> <p>serves [1] 650/1</p> <p>service [12] 676/6 684/10 684/12 693/24 700/22 700/24 700/24 701/3 701/5 716/2 743/12 743/13</p> <p>services [6] 556/15 573/17 583/19 590/1 624/11 763/13</p> <p>servicing [1] 684/13</p> <p>serving [1] 658/1</p> <p>session [1] 651/25</p> <p>sessions [1] 651/24</p> <p>set [100] 597/8 608/5 611/9 614/12 614/20 615/3 615/6 615/15 615/15 615/21 616/3 616/23 616/25 617/14 621/23 621/23 621/24 627/3 641/1 644/11 644/19 645/8 646/12 647/17 648/9 648/10 648/24 653/19 654/2 654/3 654/8 654/22 655/8 655/11 655/11 662/3 665/7 665/8 668/5 668/7 668/10 675/12 675/16 677/21 685/25 694/22 695/3 695/13 695/18 696/6 696/7 697/20 700/15 708/8 709/1 709/5 709/6 710/10 711/1 712/7 712/8 712/13 712/19 712/23 712/25 715/1 715/3 715/6 715/15 715/17 716/4 716/18 716/23 717/24 718/3 719/8 720/19 720/22 723/21 724/10 724/11 724/14 724/15 727/24 729/12 733/13 738/13 740/24 745/20 746/8 748/24 763/19 771/24 775/10 775/11 778/14 782/11 782/13 786/20 787/2</p> <p>sets [6] 701/3 701/5 710/3 727/5 727/24 728/1</p> <p>setting [4] 615/14 629/5 708/7 712/15</p> <p>setup [1] 613/15</p> <p>seven [1] 686/7</p> <p>several [6] 558/7 564/25 568/1 592/8 685/23 711/6</p> <p>Shabots [1] 593/24</p> <p>shape [3] 562/3 617/21 755/6</p> <p>share [2] 775/10 775/11</p> <p>she -- what [1] 621/12</p> <p>sheet [9] 646/11 767/3 769/16 769/20</p>	<p>769/24 770/25 772/8 773/3 773/10</p> <p>sheets [1] 770/16</p> <p>Shemini [2] 688/2 688/4</p> <p>shifted [1] 619/17</p> <p>shipping [5] 612/18 624/20 659/8 659/8 665/10</p> <p>Shlomo [1] 582/2</p> <p>short [2] 665/21 676/4</p> <p>shortcut [3] 571/20 571/21 640/15</p> <p>shot [6] 639/4 641/21 642/1 642/20 642/24 642/25</p> <p>shots [1] 639/3</p> <p>shoulder [1] 732/25</p> <p>shoulders [1] 732/23</p> <p>shut [1] 660/13</p> <p>side [6] 569/9 571/2 571/24 586/1 589/1 637/7</p> <p>sides [1] 563/15</p> <p>sideways [1] 654/10</p> <p>sign [5] 586/23 587/9 587/12 701/16 779/23</p> <p>signature [9] 587/4 587/11 691/5 691/25 692/1 692/4 692/13 727/11 727/13</p> <p>signed [2] 593/21 594/1</p> <p>significant [2] 570/21 571/19</p> <p>silent [9] 706/8 706/9 706/12 706/18 706/21 706/25 707/3 707/7 707/9</p> <p>silvered [1] 721/19</p> <p>Simchat [3] 688/2 688/5 689/4</p> <p>similar [1] 624/19</p> <p>simply [3] 562/7 563/10 736/10</p> <p>single [2] 556/13 583/14</p> <p>single-server [1] 583/14</p> <p>sister [1] 588/20</p> <p>sit [1] 732/23</p> <p>site [6] 643/23 647/24 648/3 649/22 649/24 650/2</p> <p>sits [6] 580/19 580/21 602/1 602/2 613/11 694/6</p> <p>sitting [9] 600/3 600/25 601/25 620/24 621/1 642/13 700/12 783/3 784/13</p> <p>six [6] 615/22 634/2 656/21 669/24 686/7 702/21</p> <p>sixth [3] 692/17 705/24 706/4</p> <p>size [1] 581/14</p> <p>skill [7] 677/21 727/5 727/23 727/24 728/1 760/14 782/8</p> <p>skills [1] 727/16</p> <p>slash [1] 693/6</p> <p>slow [4] 603/11 604/18 604/24 642/8</p> <p>slowly [2] 605/6 695/5</p> <p>small [3] 575/14 575/15 656/20</p> <p>smaller [2] 701/12 762/22</p> <p>software [16] 608/6 636/12 643/23 677/17 677/18 677/22 677/22 677/25 678/2 686/10 686/15 707/19 725/18 743/13 743/14 743/16</p> <p>Solomon [1] 556/13</p> <p>someone [30] 590/7 607/18 614/18 616/9 616/22 620/9 625/12 633/11 633/14 646/24 650/2 653/9 667/16 684/21 686/23 691/4 691/8 695/3 705/10 718/13 729/9 730/8 732/21 733/11 740/15 752/7 758/11 758/15 781/22 782/13</p> <p>someplace [1] 617/13</p> <p>somewhere [22] 561/23 563/11 582/22 585/3 585/10 589/9 607/5 608/1 641/7 641/11 642/4 642/13 651/5 653/1 684/22 684/25 685/6 685/13 685/14</p>

<p> Case 1:15-cv-06861-CBA-JO somewhere... [3] 695/15 700/13 783/2 son [5] 590/12 709/16 709/17 709/19 709/20 son's [1] 612/20 Sonia [57] 556/7 579/16 595/3 595/4 595/25 596/1 596/8 596/23 596/25 597/1 597/4 601/9 618/15 618/18 618/21 639/6 639/10 639/21 640/19 643/13 643/13 651/5 654/10 655/3 657/6 666/10 667/12 667/19 667/20 668/13 673/12 693/2 693/5 708/6 709/1 711/7 715/10 715/12 718/22 718/22 718/24 718/25 718/25 719/1 719/22 720/13 723/16 724/2 736/13 736/24 737/5 748/10 765/1 768/9 768/19 769/1 776/24 Sonia's [26] 596/8 596/18 599/6 599/16 601/7 601/8 614/12 614/22 635/20 654/13 654/21 656/8 656/11 657/2 657/6 664/24 710/7 711/25 714/18 714/23 721/10 721/22 735/23 737/7 737/9 756/8 Sonia/designer [1] 693/2 Sonia431 [1] 721/12 SoniaTwoRiverCoffe [1] 721/9 Sonya [1] 719/18 soon [1] 560/22 sorry [26] 566/13 574/7 576/18 579/1 588/13 604/15 605/11 610/11 618/19 627/10 629/19 642/8 643/10 662/12 686/17 722/2 768/14 770/7 772/1 775/23 777/13 778/22 778/23 780/25 781/1 784/23 sorry -- and [1] 777/13 sort [12] 564/11 565/6 587/23 615/17 624/4 673/15 673/16 701/8 704/25 707/23 732/11 749/7 sought [3] 569/17 673/15 673/16 sound [2] 760/12 772/1 sounds [2] 570/21 772/3 source [2] 584/25 702/23 South [3] 627/11 628/19 698/16 space [3] 742/6 742/7 742/9 spare [1] 605/13 speaker [1] 772/4 speaking [2] 631/19 731/9 specific [1] 770/11 specifically [2] 722/22 767/19 specifics [1] 762/15 speculate [1] 635/3 speculating [1] 686/19 Speculation [1] 718/9 speed [3] 701/8 701/10 701/11 speeds [1] 564/9 spell [2] 668/5 668/15 spelled [3] 667/12 668/1 668/14 spend [6] 592/13 592/16 592/20 601/4 631/6 677/16 spent [2] 592/15 593/4 spoken [1] 685/25 SQL [7] 626/13 627/9 627/11 627/16 628/4 724/5 724/8 stamp [1] 717/24 stand [2] 561/2 572/19 standalone [2] 589/3 589/4 standard [2] 578/7 645/5 start [14] 569/22 579/24 586/12 594/22 630/25 633/10 658/22 669/22 676/5 </p>	<p> 676/8 698/10 698/17 756/24 779/7 started [19] 532/1 559/23 574/12 574/15 579/23 600/4 609/24 623/21 623/25 629/7 676/3 676/11 698/11 698/13 709/19 716/7 716/14 765/14 773/21 starters [1] 778/2 state [4] 568/6 570/17 572/25 785/4 statement [2] 572/1 742/16 STATES [3] 555/1 555/3 555/10 static [1] 639/15 status [9] 570/22 571/5 648/13 648/17 729/18 730/1 730/5 730/7 730/17 statute [4] 680/16 680/20 680/21 681/20 statutes [1] 681/12 stay [2] 647/21 760/19 stenography [1] 555/23 step [1] 764/23 steps [3] 745/22 746/1 747/16 STEVEN [21] 555/3 562/23 563/1 570/8 574/4 630/8 630/10 646/15 650/4 680/12 681/1 681/2 681/5 708/7 709/3 709/7 712/19 730/6 730/13 772/7 772/10 stipulate [1] 689/3 stood [1] 559/14 stop [6] 631/25 690/5 704/9 735/12 767/18 770/20 stopgap [1] 774/4 stopped [3] 690/12 774/20 774/23 storage [7] 607/19 634/4 648/4 648/5 648/8 743/6 744/20 store [7] 616/5 649/14 651/24 666/3 673/24 705/14 743/9 stored [10] 568/7 585/13 614/5 614/9 616/8 648/25 649/11 721/21 726/15 743/7 stores [2] 608/22 608/23 storing [1] 619/3 straight [2] 557/23 772/13 Street [3] 556/4 573/5 576/3 strong [1] 727/23 Stroz [24] 557/7 558/1 558/3 559/19 559/25 560/5 560/6 560/16 561/10 561/17 561/20 562/20 564/10 564/17 564/20 565/5 567/19 571/18 716/13 722/11 722/23 724/1 754/24 759/2 struck [1] 564/10 studied [3] 614/3 685/7 685/15 study [3] 614/4 614/14 685/10 stuff [11] 625/6 629/5 638/24 666/24 671/17 677/19 677/22 677/25 683/11 708/21 748/3 subject [4] 728/14 728/21 729/1 729/7 submission [4] 557/3 557/6 564/9 757/11 submit [1] 702/20 submitted [4] 557/3 585/23 666/6 666/24 submitting [1] 781/12 subpoena [1] 566/20 subsequent [1] 761/5 substance [1] 687/10 sufficient [1] 748/4 suggests [1] 768/25 Sukkots [4] 687/24 687/25 687/25 688/1 summary [3] 785/5 785/19 785/23 Sunday [2] 705/25 706/7 sundown [1] 594/15 supplied [1] 624/15 supply [3] 624/11 624/16 624/22 </p>	<p> support [1] 563/4 supposed [3] 590/9 685/4 733/9 surprise [2] 689/2 742/18 surreptitiously [2] 561/22 561/23 swing [1] 754/8 switch [4] 582/15 663/15 663/16 663/23 switching [1] 631/7 sworn [2] 572/21 742/16 sworn/affirmed [1] 572/21 Sylvia [19] 556/6 579/11 609/3 616/18 618/20 644/18 666/8 708/19 709/2 715/12 719/2 733/22 734/10 736/24 768/13 768/15 768/19 768/25 771/9 Sylvia's [10] 664/24 719/10 719/13 720/6 721/20 721/21 733/22 734/7 745/25 753/23 sync [1] 694/5 system [78] 561/18 561/19 561/21 562/22 563/4 567/16 567/17 567/20 567/23 580/12 585/13 589/17 606/2 606/18 606/20 608/3 608/8 616/12 619/17 619/19 621/18 622/1 622/5 624/18 625/18 628/1 628/16 630/25 631/2 631/13 636/13 643/7 643/11 643/12 649/2 649/3 649/4 649/21 653/13 666/16 666/17 680/2 680/11 683/12 683/19 684/7 684/19 685/22 694/9 694/23 695/18 698/10 700/3 724/18 725/6 729/11 733/11 733/13 741/12 741/15 743/11 765/5 765/5 765/6 765/7 765/12 765/16 765/19 766/5 766/6 766/10 766/16 767/10 774/24 775/3 775/23 775/24 780/2 systems [7] 567/16 577/9 590/18 607/11 636/22 652/13 741/13 </p> <hr/> <p> T </p> <p> table [1] 772/6 Talmud [4] 670/6 670/7 687/17 687/19 targeted [2] 566/16 567/15 tasks [2] 592/13 686/25 tax [4] 581/15 587/23 588/4 588/11 taxes [6] 588/1 588/14 588/20 589/1 589/8 766/15 TCMS [1] 640/15 TeamViewer [4] 652/4 652/6 652/9 652/10 tech [1] 774/25 technical [7] 562/9 563/4 760/12 760/14 761/1 761/3 782/9 technically [3] 775/20 784/9 784/11 technology [1] 662/12 telephone [1] 761/10 television [2] 610/8 610/8 temp [3] 616/11 616/15 616/15 temporary [1] 752/22 ten [5] 591/4 591/4 591/12 605/17 623/9 tend [1] 573/12 tended [1] 671/16 term [3] 562/9 667/19 742/4 Termimah [1] 591/8 terminals [1] 620/4 terminated [1] 562/5 terms [1] 571/5 test [1] 562/2 testified [12] 572/22 632/22 635/17 671/16 671/18 694/22 701/15 703/5 704/7 704/10 759/15 760/25 testify [2] 590/18 603/12 testimony [27] 565/21 566/15 567/3 </p>
--	---	---

<p> Case 1:15-cv-06861-CBA-JO Document 329 Filed 11/02/16 Page 251 of 252 PageID #: 12534 testimony... [24] 567/4 567/11 569/2 569/10 571/6 572/6 578/15 585/5 605/14 611/13 627/18 629/14 640/19 677/16 679/5 689/14 690/11 697/22 704/14 721/6 740/22 744/3 744/4 744/11 testing [2] 603/25 604/5 text [7] 650/6 674/25 691/2 706/1 706/7 729/17 763/21 themselves [2] 565/23 574/5 theoretically [1] 715/6 there -- I [1] 610/2 they've [1] 558/1 third [6] 568/16 693/1 706/1 717/14 735/6 784/24 third-party [1] 717/14 thoroughly [1] 557/6 those -- what [1] 603/18 thousand [5] 565/1 568/1 670/25 671/2 705/5 thousands [3] 615/20 617/8 704/18 three [24] 569/5 569/10 570/1 571/2 571/2 582/18 584/10 584/11 603/12 604/10 611/20 612/2 657/1 659/10 670/23 710/14 712/14 712/21 727/18 730/11 734/13 735/5 774/6 785/18 threw [1] 699/15 throughout [1] 569/21 throw [3] 660/3 660/5 696/12 Thunderbird [7] 615/16 615/25 616/1 616/18 616/24 617/5 661/20 Thursday [5] 731/22 734/4 758/2 759/8 773/7 timesheets [1] 770/19 today [8] 575/7 579/5 655/4 696/3 696/19 731/11 743/1 743/3 together [6] 591/5 616/19 638/14 709/18 761/17 773/10 top [6] 593/17 599/18 657/5 690/3 721/13 778/14 topic [1] 781/21 topics [3] 563/25 731/11 734/15 Torah [4] 591/8 688/2 688/5 689/5 total [2] 584/6 729/24 totally [1] 580/11 touch [7] 617/6 683/21 683/22 753/9 753/15 753/15 753/22 touched [2] 648/18 684/12 touching [4] 635/1 686/16 686/20 686/24 towards [1] 561/24 traced [1] 776/24 track [2] 608/18 723/14 tracking [1] 624/20 training [1] 589/15 transaction [3] 752/16 767/22 767/23 transactions [9] 644/12 644/13 644/14 644/17 646/9 767/16 767/19 768/7 768/21 transfer [14] 607/12 607/18 607/25 631/8 634/14 635/12 760/3 760/7 760/21 765/21 765/22 766/2 782/2 782/10 transferred [8] 561/23 607/9 608/11 631/21 765/19 765/25 766/6 776/2 transferring [2] 631/13 631/16 transmit [1] 673/11 Transport [7] 556/3 556/3 575/20 575/22 599/25 603/21 711/17 </p>	<p> TRC [1] 738/22 treat [1] 560/8 tripping [1] 765/15 trouble [2] 625/7 758/8 trucking [6] 556/4 576/1 600/1 600/23 601/3 657/7 true [1] 704/15 trunking [1] 656/8 truthful [1] 687/11 turn [54] 576/21 586/25 593/15 594/21 598/12 625/25 639/2 643/5 643/19 644/6 663/23 664/3 664/4 664/8 664/10 667/1 671/4 673/1 674/18 674/19 678/14 678/18 679/25 680/7 680/18 680/24 681/23 681/25 682/2 682/4 682/7 682/20 682/21 690/2 692/15 693/1 693/9 694/25 700/8 701/15 702/8 702/13 705/24 707/12 708/23 710/23 730/12 762/22 766/18 772/6 778/13 781/1 781/1 784/24 turned [11] 590/9 598/5 598/20 600/2 663/25 664/2 664/6 677/8 678/14 689/25 690/8 Turning [1] 689/16 turns [1] 717/23 Twenty [1] 584/12 Twin [1] 587/23 two [206] two-month [1] 785/10 TwoRiversCoffee [1] 721/15 type [26] 581/18 589/15 598/11 603/3 604/20 613/15 632/25 634/11 634/14 634/14 635/12 636/12 648/8 651/24 653/2 653/10 661/17 671/21 677/5 677/21 677/22 691/4 691/24 757/16 768/1 785/13 typed [1] 780/9 types [5] 564/2 564/23 567/24 748/11 748/15 typing [2] 679/9 757/15 </p> <hr/> <p> U </p> <p> unable [3] 734/13 777/13 777/13 unauthorized [1] 730/20 unaware [3] 567/17 588/9 745/5 unclear [1] 565/18 understood [5] 560/24 694/10 730/24 765/9 775/19 unique [1] 651/21 unit [1] 626/12 UNITED [3] 555/1 555/3 555/10 unless [10] 578/2 578/2 603/22 631/6 663/23 685/15 712/18 725/19 729/2 783/22 unplug [1] 747/22 unplugged [10] 637/7 637/11 637/21 637/22 747/18 747/20 754/22 754/23 754/25 755/5 unusual [1] 746/13 update [2] 563/3 646/21 updates [1] 646/20 upgrade [1] 732/14 upset [1] 776/18 upstairs [1] 612/17 usage [2] 740/14 740/17 USB [7] 695/15 695/24 696/20 697/7 697/10 698/4 745/12 USBs [8] 695/16 695/17 695/21 695/23 696/3 696/8 696/14 697/15 useful [1] 704/21 </p>	<p> user [105] 562/23 562/25 565/5 595/18 599/23 599/3 596/3 596/7 599/9 596/11 596/13 596/24 597/9 597/13 597/15 597/17 597/18 597/21 597/25 601/9 603/18 603/22 604/8 609/1 609/4 609/9 609/11 609/12 609/14 609/20 611/5 611/8 611/10 611/14 611/14 611/18 611/18 611/19 613/20 626/17 635/18 635/23 636/3 642/6 642/7 642/11 642/14 642/18 643/8 643/9 643/11 643/12 645/3 645/4 655/6 655/8 655/14 655/15 658/24 661/17 667/16 668/7 695/4 695/4 695/6 696/6 696/7 701/1 710/11 710/12 714/3 714/8 714/8 714/8 714/11 714/19 714/21 714/23 714/25 715/24 716/14 716/18 716/20 716/20 716/21 716/24 717/15 717/18 718/3 718/15 718/21 719/2 719/7 719/10 719/11 719/12 719/23 720/11 721/2 724/2 727/7 738/11 757/20 758/15 758/15 user's [1] 655/22 users [21] 566/10 567/22 595/1 595/5 595/6 595/10 595/13 596/12 596/16 597/17 609/6 611/22 656/4 695/6 715/5 715/17 716/19 723/24 732/7 732/8 732/9 uses [16] 580/13 580/15 613/11 613/23 613/24 614/20 617/15 667/19 705/22 705/23 718/17 718/25 735/14 739/20 764/18 781/22 utilization [1] 752/4 utilize [3] 583/4 648/4 736/11 utilizing [1] 621/15 </p> <hr/> <p> V </p> <p> Vaguely [3] 680/23 707/22 781/14 vendor [2] 707/18 707/19 vendors [1] 766/13 verbal [1] 681/22 verified [1] 599/14 verify [5] 597/15 598/4 598/20 601/5 644/23 version [4] 700/3 774/15 774/16 783/24 versus [1] 555/5 via [2] 618/2 691/17 vibrate [1] 676/21 view [5] 564/14 646/10 691/16 771/12 782/21 viewed [1] 745/7 viewer [1] 646/11 viewing [1] 786/8 views [1] 781/23 Vince [14] 646/15 648/9 693/13 694/9 694/14 730/9 773/25 775/4 775/5 776/10 776/12 776/18 777/5 777/21 Vince's [2] 786/3 786/10 Vincent [7] 570/8 763/22 771/9 771/20 780/10 786/1 786/2 violates [1] 678/12 violation [1] 564/11 violations [1] 564/16 virtual [2] 642/11 697/22 visit [1] 653/25 visited [1] 731/12 Voice [2] 622/24 623/3 volition [1] 766/25 volume [1] 728/9 VPN [2] 783/6 783/7 </p>
---	---	---

W
wait [9] 559/3 559/5 559/21 578/20 601/13 697/23 732/8 782/25 783/1 walk [3] 659/7 700/8 700/9 walked [1] 582/23 walking [1] 582/18 wants [2] 686/9 714/19 was -- not [1] 619/8 watch [1] 610/7 watching [2] 637/14 637/15 ways [2] 647/19 647/22 weak [1] 774/13 web [1] 700/18 Wednesday [2] 731/21 734/4 week [3] 731/25 734/6 764/6 weekend [1] 557/14 weekly [1] 586/5 weeks [6] 610/3 615/22 633/17 633/25 634/2 755/13 Whereas [1] 661/20 whole [8] 574/12 574/14 607/14 638/23 684/2 687/18 706/15 744/18 willing [1] 759/2 Windows [17] 596/17 653/17 677/18 696/21 696/22 696/24 696/25 697/4 697/8 698/25 699/2 700/2 700/3 700/23 700/24 725/6 732/14 Wing [2] 733/4 733/4 wiped [2] 561/22 725/19 wiping [1] 725/18 wire [1] 582/14 wires [2] 748/5 748/7 wiring [1] 663/15 wish [2] 559/8 571/23 with -- I [1] 608/4 withdraw [1] 645/14 withdrawn [1] 763/25 withhold [1] 585/2 witness [11] 565/11 565/23 572/16 572/19 572/19 572/20 617/1 669/19 753/2 761/19 787/5 witness' [1] 689/13 witnesses [8] 566/2 566/6 570/1 570/25 571/2 571/6 571/9 571/23 word [4] 564/19 600/5 605/7 769/15 worded [1] 638/11 words [4] 566/4 571/10 757/21 757/23 works [13] 582/25 588/24 599/24 600/12 659/14 718/6 718/13 729/22 739/8 739/11 739/13 749/17 777/5 workstation [2] 643/16 644/2 would -- her [1] 615/10 write [6] 592/14 592/23 596/11 604/20 612/3 785/12 writing [1] 592/14 written [2] 653/1 759/5 wrote [14] 569/16 592/15 593/10 594/5 638/12 638/13 690/3 706/20 733/6 737/7 737/18 757/22 757/23 757/23
X
XP [1] 700/2
Y
Yahoo [6] 614/23 616/10 617/16 661/11 691/9 760/16 year [12] 670/19 670/24 671/2 671/3 687/7 687/8 696/6 702/24 704/6 704/11 709/18 758/12 years [19] 584/10 584/11 590/3 591/4

591/4 591/12 609/23 609/25 610/21 623/9 623/17 659/18 659/22 669/24 670/23 704/18 709/17 730/11 730/11 Yeshiva [5] 589/20 591/5 591/7 591/9 623/11 yeshivas [2] 577/6 592/4 Yom [1] 718/1 YORK [3] 555/1 555/4 555/15 Yosef [4] 591/10 591/11 591/21 592/2 Yossi [49] 608/13 622/10 622/11 632/13 632/21 640/11 641/14 643/15 643/25 644/14 645/9 646/1 646/7 648/11 649/6 649/16 665/20 674/11 674/16 675/14 676/14 681/7 683/11 683/23 685/2 685/25 686/1 689/10 694/3 697/20 698/2 707/25 708/2 708/4 727/25 727/25 728/2 729/23 743/11 758/4 760/24 760/25 763/3 765/21 776/15 776/18 777/4 777/16 777/23 you -- are [1] 619/16 you -- do [1] 617/13 you -- when [1] 614/7 yourself [6] 569/14 583/22 626/4 631/5 638/21 681/4

Z

Zero [1] 679/22
zone [1] 729/10